

NOTICE OF RULEMAKING HEARING

The State Licensing Authority of the Colorado Department of Revenue, Medical Marijuana Enforcement Division will consider the promulgation of additions to its Rules and Regulations as authorized by House Bill 10-1284. For specific information and language concerning the proposed changes, please refer to the draft regulations which are set forth in their entirety following this notice and are also at the Colorado Department of Revenue's website <http://www.colorado.gov/cs/Satellite/Revenue-Main/XRM/1222943467539>.

STATUTORY AUTHORITY FOR RULEMAKING

The State Licensing Authority promulgates these regulations pursuant to the authority granted in sections 12-43.3-201 and 12-43.3-202, C.R.S., of the Colorado Medical Marijuana Code (House Bill 10-1284), which became effective on July 1, 2010, and section 24-4-103, C.R.S., of the Administrative Procedure Act.

SUBJECT OF RULEMAKING

The proposed rules are posted on the Colorado Department of Revenue's website <http://www.colorado.gov/cs/Satellite/Revenue-Main/XRM/1222943467539>. Other relevant information regarding this rulemaking also will be posted on the Department's website. In addition, the proposed rules are attached to this Notice and fully incorporated herein.

The State Licensing Authority will consider the promulgation of the following list of new rules and existing rules with major changes proposed. This list is not exhaustive. For specific information and language concerning the proposed changes, please refer to the draft regulations which are set forth in their entirety at the Colorado Department of Revenue's website and on the Colorado Secretary of State website. **Please take note that in addition to the subject matters addressed in the current draft proposed regulations, the State Licensing Authority may consider additional regulations consistent with any subject matter addressed by the draft regulations in order to implement and interpret the Medical Marijuana Code.**

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INCORPORATION BY REFERENCE

Pursuant to section 24-4-103(12.5), C.R.S., the State Licensing Authority incorporates by reference the following material:

1. United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at <http://www.time.gov/timezone.cgi?Mountain/d/-7/java>.
2. 2010 Apple QuickTime at <http://www.apple.com/quicktime/>
3. 2010 Windows Media Player at <http://windows.microsoft.com/en-US/windows/products/windows-media-player>
4. ANSI – American National Standard Institute approved Security Industry Association – SIA CP-01 2007 Control Panel Standard, which can be found at <http://www.siaonline.org/>
5. Food and Drug Administration, Department of Health and Human Services, 21 CFR 178.1010 (2010) – Sanitizing Solutions, found at: <http://cfr.vlex.com/source/code-federal-regulations-food-drug-1070/page/58#ixzz187IDao7M>

RULEMAKING RECORD AND PUBLIC PARTICIPATION

The official record for purposes of the rulemaking hearing on January 27 and 28, 2011 will include any written submissions or oral testimony. The State Licensing Authority encourages interested parties to submit written comments on the proposed rules, including alternate proposals, by January 14, 2011, so that the State Licensing Authority can review comments prior to the rulemaking hearing. You may submit a written comment via email to: MMEDRulecomments@dor.state.co.us. In addition, you may submit comments to:

Colorado Department of Revenue
Medical Marijuana Enforcement Division
Attn: Mia Tsuchimoto - Rulemaking Public Comments
1881 Pierce Street – Room 108
Lakewood, CO 80214

Please include your name and physical address in any written comment, including an email.

In addition, written comments will be accepted at the rulemaking hearing.

In its discretion, the State Licensing Authority may also afford interested parties an opportunity to make brief oral presentations at the rulemaking hearing. **The State Licensing Authority may choose to not allow oral comment, so written comments are strongly encouraged.** If allowed, oral presentations will likely be limited to two minutes or less per person. Individuals will not be allowed to cede their time to another person (for instance, one person speaking on behalf of five people will not be given ten minutes to speak). Organized groups of individuals are urged to identify one spokesperson and to be concise. The State Licensing Authority encourages interested parties to avoid duplicating previously-submitted material and testimony.

HEARING SCHEDULE

Date: Thursday, January 27, 2011 and Friday, January 28, 2011

Time: 9:00 a.m.

Place: Jefferson County Justice Center
Administration and Courts Facility
Hearing Room (HR 1)
100 Jefferson County Parkway
Golden, Colorado 80419

Location of the rulemaking hearing will also be posted on the Department of Revenue's website and the Secretary of State's website.

The hearing may be continued at such place and time as the State Licensing Authority may announce.

The State Licensing shall deliberate upon the evidence, testimony and written submissions presented at this hearing, as well as any related matters properly submitted before the hearing record is closed. Pursuant to said hearing, in the above-entitled matter at the time and place aforesaid, or at any adjourned meeting, the State Licensing Authority will adopt such rules and regulations as in its judgment the record may justify.

If you are an individual with a disability who needs a reasonable accommodation in order to participate in this rulemaking hearing, please contact Mia Tsuchimoto at mtsuchimoto@dor.state.co.us. Please contact Ms. Tsuchimoto no later than January 20, 2011 of your request.

Dated this 15th day of December, 2011.

FOR THE COLORADO DEPARTMENT OF
REVENUE, MEDICAL MARIJUANA
ENFORCEMENT DIVISION

_____/s/_____
Matt Cook, Senior Director of Enforcement
Colorado Department of Revenue

General Background Information:

Article 43.3 of Title 12 of the Colorado Revised Statutes (House Bill 10-1284) went into effect on July 1, 2010. Known as the Colorado Medical Marijuana Code (“Code”), the Code gives the State Medical Marijuana Licensing Authority the ability to promulgate rules necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of medical marijuana and the enforcement of the Code. In addition, section 12-43.3-202(2)(a)(I), C.R.S., allows the State Licensing Authority to promulgate rules for compliance with and enforcement of any provision of the Code and section 12-43.3-202(2)(a)(XX), C.R.S., allows the state licensing authority to address such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of the Code.

When the General Assembly implemented the Code, it sought to create a *vertically integrated* closed-loop commercial medical marijuana regulatory scheme by: (1) the formation of a dual licensing system with a local option opt-out provision; (2) the establishment of suitability standards for ownership and employment based on Colorado residency and a determination of good moral character; (3) the promulgation of a set of minimum security, surveillance, and reporting rules; and (4) requirements aimed at ensuring public safety, facilitating full operational transparency, and eliminating illicit diversion of marijuana.

During the period of August 27, 2010 through December 15, 2010, the Medical Marijuana Enforcement Division (“MMED”) consulted with interested parties from the medical marijuana industry, the legal profession, and local and state government to draft the proposed rules and ensure adequate oversight and regulation of the medical marijuana industry. In addition, in January, 2011, the State Licensing Authority conducted a public rulemaking in accordance with the requirements of section 24-4-103, C.R.S., of the Administrative Procedure Act, and allowed all interested persons the opportunity to submit their views and opinions regarding the rules.

Definitions – The following definitions of terms, in addition to those set forth in section 12-43.3-104, C.R.S., shall apply to all rules and regulations promulgated pursuant to Article 43.3 of Title 12, of the Colorado Revised Statutes, unless the context otherwise requires:

Division – refers to the Medical Marijuana Enforcement Division.

Division Director – refers to the Director of the Medical Marijuana Enforcement Division.

MMC – acronym for Medical Marijuana Center.

MMED – acronym for the Medical Marijuana Enforcement Division.

MIP – acronym for Medical Marijuana Infused Product.

OPC – acronym for Optional Premises Cultivation Operation.

State Licensing Authority – See section 12-43.3-201(1), C.R.S.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-901(2), and 18-18-406, C.R.S.

Basis and Purpose:

Notwithstanding defined, limited exception in the Colorado Constitution, any person who buys, sells, transfers, gives away, or acquires medical marijuana outside the requirements the Code is engaging in illegal activity pursuant to Colorado law. This rule clarifies that those engaged in the business of possessing, cultivating, or selling medical marijuana must be properly licensed to be in compliance with Colorado law.

Regulation 43.3 - _____Engaging in Business.

Notwithstanding the provisions of section 14 of article XVIII of the state constitution, no person shall engage in the business of cultivating, possessing, selling, or offering to sell medical marijuana unless said person is duly licensed.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 12-43.3-404, C.R.S.

Basis and Purpose:

The Code prohibits a medical marijuana-infused products licensee that has an Optional Premises Cultivation license from selling any of the medical marijuana it cultivates. This rule reiterates that law. The State Licensing Authority intends to alleviate any confusion with the regulated community by putting this statutory prohibition in a rule.

43.3-xxx Optional Premises Cultivation License – Prohibited Activity.

Any person licensed pursuant to section 12-43.3-404 C.R.S, with an Optional Premises Cultivation license, shall use 100% of the medical marijuana it cultivates for only those purposes described in section 12-43.3-104(9) and it shall be unlawful to sell, give away or transfer any of the marijuana that it cultivates in any other form, substance or matter to any person.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 12-43.3-404(3), C.R.S.

Basis and Purpose:

The Code sets forth minimum requirements for written agreements between medical marijuana-infused products licensees and Medical Marijuana Centers. Specifically, the written agreements must set forth the total amount of medical marijuana obtained from a Medical Marijuana Center licensee to be used in the manufacturing process, and the total amount of medical marijuana-infused products to be manufactured from the medical marijuana obtained from the Medical Marijuana Center. This rule clarifies that the MMED must approve such written agreements to ensure they meet those requirements.

Reg 43.3-_____ Infused Products Contracts.

Any contract as required pursuant to section 12-43.3-404(3), C.R.S., shall be approved as to form and substance by the Medical Marijuana Enforcement Division.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-901, 16-2.5-121, 16-2.5-124.5, 18-8-104(4), and 18-8-106, C.R.S.

Basis and Purpose:

Licensees and others must allow the MMED's inspectors and peace officers to inspect their licensed premises. The MMED's inspectors are certified by the Peace Officer Standards and Training Board and have the authority to act as law enforcement officers while on the job. Although a licensee has a constitutionally-protected property right pursuant to Colorado law, the Code says it shall not "be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a Medical Marijuana Center, Optional Premises Cultivation Operation, or Medical Marijuana-Infused Products Manufacturer." C.R.S. § 12-43.3-202(2)(c). Accordingly, this rule was adopted to clarify to the regulated community that possession of a valid license does not make a licensee immune from inspection and investigation from a law enforcement officer.

Regulation 43.3-926. Interference with Officers.

No licensee or person shall by force or threat of force, including any letter or other communication threatening such force, endeavor to intimidate, obstruct or impede inspectors of the MMED, their supervisors, or any peace officers from exercising their duties. The term "threat of force" includes the threat of bodily harm to the officer or to a member of his/her family.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-307(1)(a), and 12-43.3-307(2)(a), C.R.S.

Basis and Purpose:

Licensees must meet certain requirements in order to be eligible to hold a medical marijuana-related license. This rule helps the MMED ensure that its licensees are legally qualified to hold their licenses, thereby helping to maintain the integrity of Colorado's medical marijuana business.

Reg 43.3-_____ Duty to Report Offenses.

Any person licensed pursuant to Article 43.3 of Title 12 of the Colorado Revised Statutes, and any associated or key persons to a licensee, or any occupational licensee must make written notification to the Division of any criminal conviction and criminal charge pending against such person within ten days of such person's arrest, summons, or conviction. This notification requirement shall not apply to non-felony traffic violations unless they result in suspension or revocation of a driver's license, are based on allegations of driving under the influence or impairment of intoxicating liquor or drugs, or result in the person being taken into custody. Failure to make proper notification to the Division may be grounds for a disciplinary action.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 25-1.5-106(6)(f), C.R.S.

Basis and Purpose:

While a patient may shop at any licensed Medical Marijuana Center, he/she may only designate one as his/her primary center. With limited exception, a patient's designated primary center may only grow six medical marijuana plants and two ounces of medical marijuana for said patient. Stakeholders raised a concern that if a patient changes his/her primary center before the first primary center had grown and harvested the plants, then the first primary center may be subject to criminal and civil sanctions because it could unknowingly be growing too many plants. Accordingly, the State Licensing Authority adopted this rule to clarify that before allowing a patient to designate a licensed center as its primary center, that center must first confirm with the patient that no other center is designated as that patient's primary center. If the patient does have another center designated as its primary center, the second center must confirm with the first center that the patient's plants have been grown and harvested. This rule will help keep Medical Marijuana Centers in compliance with the Code.

Reg. 43.3- 901.e Registration of a Primary Center.

A Center licensed pursuant to section 12-43.3-402, C.R.S., shall not allow a patient to register the Center as a Primary Center if the patient has previously designated another Center as its Primary Center at anytime during the past 120 days. Should a patient desire to designate a new Primary Center after the 120 days timeframe, the patient must advise the new Primary Center of the number of plants being cultivated at its former Primary Center and the new Primary Center must validate that any existing plants at the former Primary Center have been assigned to new patients at that Center or that all plants previously assigned to the patient have matured and been cultivated and harvested. The gaining Center shall also maintain written authorization from the patient and any relative plant count waivers to support the number of plants designated for that patient and shall report the assignment by a patient of its Primary Center to MMED within 72 hours.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-901(4)(e), and 25-1.5-106(6)(f), C.R.S.

Basis and Purpose:

With limited, defined exception, the Code makes it unlawful for a Medical Marijuana Center licensee to possess more than six medical marijuana plants and two ounces of medical marijuana for each patient who has registered that center as his or her primary center. This rule provides guidance to the regulated community regarding how to account for their plants, partly because the rule clarifies that clones are to be considered in one's plant count. In addition, the rule sets forth the requirements for processing the plants in order for licensees to be able to track their inventory and ensure compliance with the Code.

Regulation 43.3 – 402 Inventory.

- A. "Inventory" - shall be measured by common weights and measures and consist of both:
 - 1. plant count within a licensee's OPC and MMC which shall not exceed 6 plants per patient designated to the MMC including marijuana clones placed in a growing medium; and
 - 2. the total weight of all packaged cannabis such as but not limited to flowers, kief, leaf, shake, concentrates, and oils not subject to §12-43.3-104 (9), C.R.S. located on the licensed premises of a Medical Marijuana Center, not to exceed two ounces per primary center patient.
- B. Notwithstanding the requirements of subsection (A) of this section to the contrary, a licensee may, in the case of a patient authorized to possess more than 6 plants and two ounces, possess such additional medical marijuana as provided by §12-43.3-901(4)(e), C.R.S.
- C. Inventory Determination.

1. All plants of the genus cannabis, INCLUDING MARIJUANA CLONES PLACED IN A GROWING MEDIUM, in possession of a licensee while at an Optional Premises Cultivation facility and Medical Marijuana Center shall be considered plant inventory.
 2. Propagation includes but is not limited to the reproduction of cannabis plants by seeds, cuttings or grafting in a designated limited access area ONLY of an Optional Premises Cultivation facility that is monitored by one or more surveillance cameras as required by rule. The propagation space shall be clearly identified by signage designated by the State Licensing Authority and all marijuana located in the propagation space shall be accounted for. Propagation shall only be allowed upon an OPCL licensed premises.
 3. Vegetation is the sporophytic state of the cannabis plant which is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for flowering in a designated limited access area monitored by one or more surveillance cameras as provided in rule. The vegetation space shall be clearly identified by signage designated by the State Licensing Authority and all marijuana located in the vegetation space within a limited access area of an Optional Premises Cultivation facility shall be accounted for. Vegetation may only occur within a limited access area upon the licensed premises of an Optional Premises Cultivation facility.
 4. Flowering is the gametophytic or reproductive state of cannabis in which the plant is in a designated flowering space that is a limited access area monitored by one or more surveillance cameras within an Optional Premises Cultivation facility with a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of medical marijuana. The flowering space shall be clearly identified by signage designated by the State Licensing Authority and all marijuana shall be accounted for. Flowering plants may only be possession within a limited access area of a licensed Optional Premises Cultivation facility.
 5. Throughout the propagation and vegetation phases, an Optional Premises Cultivation licensee shall tag and maintain a true and accurate accounting of all non-flowering cannabis plants including those destroyed or transferred to the MMC for sale. All accounting reports shall be made available to the State Licensing Authority, or other local authority, on demand.
- D. Once harvested, tagged medical marijuana plants shall be combined in batches for tracking through the entire manufacturing process with the tags

for each medical marijuana plant accompanying each batch at each stage of manufacture. Each batch will be identified by listing the identifying markers from the individual plants from the designated flowering area and a data collection point will occur in which the batch will be weighed, duly recorded and clearly identified within sight of a video camera and the “wet” weight of buds, stems and leaf duly recorded as unprocessed product, wholesale byproduct, and waste. The identifying markers associated with each batch shall be prominently displayed on drying racks or wires and curing containers throughout the manufacturing process.

- E. “Processed” as used in this rule shall mean the final dried, finished and useable marijuana product having been sifted and sorted to remove plant waste stems, and/or seeds and other byproducts prepared for final packaging and transport to the licensed center as permitted in law.
- F. Prior to packaging, the processed medical marijuana plants shall be weighed before transfer to the MMC or MIPs, and the weight of unfinished product, wholesale byproduct and waste as a data collection point recorded. Processed marijuana shall be immediately packaged, sealed, weighed and stored in an approved secure transportation container for transport to the licensed premises of the MMC. Medical marijuana packaging shall be in sealed containers/packaging with tamper-proof bands.
- G. All medical marijuana shall be weighed in a limited access area of an Optional Premises Cultivation facility monitored by one or more cameras before and after packaging to determine product weight and total package weight and tagged with both weights before being transported to the MMC.
- H. For inventory purposes, all inventory packaged and stored in an approved secure transportation container shall be accounted for as inventory of the MMC.
- I. Processed medical marijuana plants shall be packaged in units of one pound or less and tagged with the total weight of the packaged product and securely sealed in a tamper-proof manner. The packages will be transported to the MMC within 48 hours and recorded as inventory at the receiving MMC.
- J. Packaged medical marijuana shall be weighed, logged out, and transported directly from the Optional Premises Cultivation facility to the Medical Marijuana Center’s licensed premises in a secure fashion and out of plain sight.
- K. Transport will be made by an individual licensed by the State Licensing Authority and as authorized pursuant to these rules.

- L. On arrival at the licensed center, all packages containing medical marijuana shall be re-weighed as soon as possible in a limited access area of the MMC and monitored by one or more cameras and logged in to the licensed Center's on hand inventory.
- M. If medical marijuana product is intended for wholesale distribution to another licensed Medical Marijuana Center licensed premises, it shall be weighed in a limited access area of the center and monitored by one or more cameras as provided in rule and logged out of the originating center for pickup and transport to the receiving licensed center or Infused Products Manufacturer as authorized by law.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-103(2)(b), 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

This rule was adopted to clarify that the State Licensing Authority will only allow a licensed center to sell 30% of its inventory based on a yearly schedule. While some stakeholders wanted a center to be able to sell 30% of its inventory every day, the State Licensing Authority disagreed, feeling that such an allowance would be not only against the intent of the drafters of the Code but also against the requirements of the Code.

The Code allows licensees to purchase up to thirty percent (30%) of the medical marijuana needed to fulfill patient needs. Despite significantly raising the barrier to entry by increasing costs since licensees must own the entire chain of production and distribution, this requirement promotes efficiencies of economies of scale and markedly improves supply chain coordination. Stakeholders wanted licensed medical marijuana centers to have the opportunity to sell medical marijuana to other centers and licensed infused products manufacturers largely because they did not want such non-taxed sales to interfere with its regular business transactions. However, the Code only allows the sale of medical marijuana between 8 a.m. and 7 p.m. While stakeholders continued to express the desire to have the ability to sell at other hours, many recognized that few centers open as early as 8 a.m., so such sales could likely take place out of the view of the public and without interrupting a center's business.

For purposes of this rule, a calendar year means January 1st to December 31st.

The State Licensing Authority expects that licensees selling and buying medical marijuana will apply proper due diligence when verifying that the other party to the transaction has a license in good standing. The State Licensing Authority does not intend to pursue disciplinary action against a licensee that applies such due diligence in the event the other party to the transaction is dishonest about the status of their license.

30% Rule

- A. During the hours established in section 12-43.3-901 (4) (I), medical marijuana manufactured by a medical marijuana center licensee within its

licensed optional premises cultivation facility, may be sold to other licensed medical marijuana centers or licensed infused products manufacturing facilities, only under the following conditions:

1. Pursuant to section 12-43.3-402 (4), a medical marijuana center licensee may purchase not more than thirty percent of its total on-hand medical marijuana inventory from another licensed medical marijuana center in Colorado. A medical marijuana center may sell no more than thirty percent of its total on-hand medical marijuana inventory to another Colorado medical marijuana center licensee.
2. Total on-hand inventory as used in section 12-43.3-402(4), C.R.S., shall only include the total of all medical marijuana grown on the centers identically licensed optional premises cultivation licensed premises, which has been “processed” as defined in Regulation 43.3-402(5) and the total amount or quantity has been accounted for in the licensed medical marijuana centers inventory during the previous calendar year, or in the case of a newly licensed business, its first 12 months of business.
3. A Medical marijuana center licensee may also contract for the manufacture of marijuana infused products with licensed marijuana infused product manufacturer licensees utilizing an approved contract as provided by section 12-43.3-402 (2) (b). For purposes of determining compliance with subsection A(1), medical marijuana distributed to a marijuana infused products licensee by a medical marijuana center licensee shall not be included.
4. All parties to the buying and selling transactions shall verify the license status of the other licensee(s).
5. It shall be a violation for any Medical Marijuana Center to sell or purchase more than 30% of its total on-hand inventory as defined in subsection (b) of this regulation, during any calendar year, or in the case of a newly licensed business, its first 12 months of business.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212
Regulation 43.3-600**

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-601(3) through (7), and 24-4-105, C.R.S.

Basis and Purpose:

This rule explains how the State Licensing Authority will respond to complaints against licensees and how it will conduct its hearing process when it has reason to believe a licensee is in violation of the Code or other relevant laws. The rule protects the due process rights of licensees. The rule also clarifies how licensees must convey information to the public when their licenses are suspended.

In addition, stakeholders voiced concerns that if licensees were not able to care for their products during a suspension, then their plants would die, their edible products would go bad, and their on-hand inventory would not be properly maintained. Accordingly, this rule was enacted to clarify what licensees whose licenses are suspended may do to care for on-hand inventory, manufactured products, and plants during the suspension. The rule also clarifies what activity is prohibited during such suspension.

Regulation 43.3-600. Complaints Against licensees - Suspension and Revocation of Licensees.

- A. Whenever a written complaint is filed with the licensing authority, charging any licensee with a violation of any law or of any of the rules or regulations adopted by the State Licensing Authority, the licensing authority shall determine by investigation or otherwise the probable truth of such charges.
- B. If the licensing authority has probable cause to believe that a licensee has violated any such law, rule or regulation, the licensing authority shall issue and cause to be served upon such licensee a notice of hearing and order to show why its license should not be suspended or revoked.
- C. A hearing shall be held at a place and time designated by the licensing authority on the day stated in the notice, or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee, in person or by counsel, shall then be permitted to give evidence in defense

and in explanation, and shall then be allowed to give evidence and statements in mitigation of the charges. In the event the licensee is found to have committed the violation charged or any other violation, evidence and statements in aggravation of the offense shall also be permitted.

- D. If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the licensee, but standing alone establishes the guilt of the licensee of a violation of some other law, rule or regulation, the licensee shall be permitted to give evidence and statement in defense, explanation and mitigation if then prepared to do so. If such evidence is not then available, but can be obtained by the licensee, the licensee shall state the substance thereof and upon his request the hearing may be recessed for not more than ten days, and shall then continue under the same procedure as through no recess had occurred.
- E. In the event the licensee is found not to have violated any law, rule or regulation, the charges against him will be dismissed. If the licensee is found to have violated some law, rule or regulation, his license may be suspended or revoked.
- F. Every Medical Marijuana Center licensee or Infused Products Manufacturer licensee whose license has been suspended by any licensing authority shall, if ordered by the licensing authority, post two notices in conspicuous places, one on the exterior and one on the interior of its premises, for the duration of the suspension. The notices shall be two feet in length and fourteen inches in width containing lettering not less 1/2" in height, and shall be in the following form:

**NOTICE OF SUSPENSION
MEDICAL MARIJUANA LICENSES ISSUED
FOR THESE PREMISES HAVE BEEN
SUSPENDED BY ORDER OF THE STATE OR LICENSING AUTHORITY
FOR VIOLATION OF THE COLORADO MEDICAL MARIJUANA CODE**

Advertising or posting signs to the effect that the premises have been closed or business suspended for any reason other than by order of the licensing authority suspending the medical marijuana license, shall be deemed a violation of this rule.

- G. During any period of active license suspension, when such suspension has not otherwise been stayed by the licensing authority through the payment of a fine pursuant to section 12-43.3-601(3) through (7), C.R.S. the Medical Marijuana Center licensee shall not permit the selling, serving, giving away, distribution or possession of medical marijuana on the licensed premises.

- H. Unless its license has been revoked, or otherwise ordered by a licensing authority during any period of suspension, nothing shall prevent a Medical Marijuana Center from maintaining its on hand inventory and caring for its licensed Optional Premises Cultivation Operation during any period of active license suspension, however no medical marijuana shall be removed from the licensed premises at any time for any reason.
- I. Unless its license has been revoked, or otherwise ordered by a licensing authority during any period of suspension, nothing shall prohibit an Infused Products Manufacturer Licensee from maintaining infused products or other butters, oils or tinctures on the licensed premises during any period of suspension, but no medical marijuana in any form shall be sold, exchanged, given away or removed from the licensed premises. Nothing shall prevent an Infused Products Manufacturing licensee from maintaining its inventory or caring for its Optional Premises Cultivation Operation during any period of suspension, however no medical marijuana shall be removed from the licensed premises at any time for any reason.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-601, and 24-4-105, C.R.S.

Basis and Purpose:

The rule lays out the process for summary suspensions when the State Licensing Authority has cause to immediately revoke a licensee's license prior to a hearing. Such an occasion will occur when the State Licensing Authority has reason to believe and finds that a licensee has been guilty of a deliberate and willful violation of any applicable law or regulation, or has committed an infraction of such magnitude that it is imperative its license be revoked to protect the public safety and welfare. The rule ensures proper due process for licensees when their licenses are temporarily or summarily suspended by requiring prompt initiation of disciplinary proceedings after such suspensions.

Stakeholders voiced concerns that if licensees were not able to care for their products during a summary suspension, then their plants would die, their edible products would go bad, and their on-hand inventory would not be properly maintained. Accordingly, this rule was written to clarify what licensees whose licenses are summarily suspended may do to care for on-hand inventory, manufactured products, and plants during the suspension (unless the State Licensing Authority does not allow such activity). In addition, the rule clarifies what activity is always prohibited during such suspension.

Regulation 43.3-602. Temporary-Summary Suspension.

- A. Where the licensing authority has reasonable grounds to believe and finds that a licensee has been guilty of a deliberate and willful violation of any applicable law or regulation or that the public health, safety or welfare imperatively requires emergency action and incorporates such findings in its order, it may temporarily or summarily suspend the license pending proceedings for suspension or revocation which shall be promptly instituted and determined.
- B. During any period of active temporary suspension, unless otherwise ordered by a licensing authority, the licensee shall be allowed to maintain and care for its licensed Optional Premises Cultivation Operation, its Infused Products Manufacturing facility and any related on premises inventory, but the licensee shall not be allowed to sell, transfer, exchange or remove any of its inventory from the licensed premises.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 24-4-105, C.R.S..

Basis and Purpose:

This rule establishes a system by which a licensee may petition the MMED to get a formal position by the State Licensing Authority on issues that will likely be applicable to other licensees. By utilizing this system, licensees can ensure that their due process rights are protected because the Administrative Procedure Act will apply. The State Licensing Authority intends to adopt these formal positions as rules each year. This system works for other divisions within the Department of Revenue and helps the regulated community get clarity on yet-unknown issues.

Regulation 43.3-200. Declaratory Orders Concerning the Colorado Medical Marijuana Code.

- A. Any person, municipality, county, or city and county, may petition the Medical Marijuana Enforcement Division of the Colorado Department of Revenue for a statement of position concerning the applicability to the petitioner of any provision of the Colorado Medical Marijuana Code, or any regulation of the State Licensing Authority. The Division shall respond with a written statement of position within thirty days of receiving such petition.
- B. Any person who has petitioned the Division for a statement of position and who is dissatisfied with the statement of position or who has not received a response within thirty days, may petition the State Licensing Authority for a declaratory order pursuant to section 24-4-105(11), C.R.S. Any petitioner who has not received a statement of position within thirty days may petition the State Licensing Authority at any time thereafter. Such petition shall set forth the following:
 - 1. The name and address of the petitioner, whether the petitioner is licensed pursuant to the Colorado Medical Marijuana Code and if so, the type of license and address of the licensed premises.
 - 2. The statute, rule or order to which the petition relates.

3. A concise statement of all of the facts necessary to show the nature of the controversy or the uncertainty as to the applicability to the petitioner of the statute, rule or order to which the petition relates.
 4. A concise statement of the legal authorities, if any, and such other reasons upon which petitioner relies.
 5. A concise statement of the declaratory order sought by the petitioner.
- C. The State Licensing Authority will determine, in its discretion without prior notice to the petitioner, whether to entertain any petition. If the State Licensing Authority decides it will not entertain a petition, it shall promptly notify the petitioner in writing of its decision and the reasons for that decision. Any of the following grounds may be sufficient reason to refuse to entertain a petition:
1. The petitioner has failed to petition the Division for a statement of position, or if a statement of position has been issued, the petition for declaratory order was filed with the State Licensing Authority more than thirty days after issuance of the statement of position.
 2. A ruling on the petition will not terminate the controversy nor remove uncertainties concerning the applicability to petitioner of the statute, rule or order in question.
 3. The petition involves a subject, question or issue which is currently involved in a pending hearing before the state or any local licensing authority, or which is involved in an on-going investigation conducted by the Division or which is involved in a written complaint previously filed with the State Licensing Authority.
 4. The petition seeks a ruling on a moot or hypothetical question, having no applicability to the petitioner.
 5. Petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to Colo R. Civ. Pro. 57, which will terminate the controversy or remove any uncertainty concerning applicability of the statute, rule or order.
- D. If the State Licensing Authority determines that it will entertain the petition for declaratory order, it shall notify the petitioner within 30 days, and the following procedures shall apply:
1. The State Licensing Authority may expedite the hearing, where the interests of the petitioner will not be substantially prejudiced thereby, by ruling on the basis of the facts and legal authority presented in the

petition, or by requesting the petitioner or the Medical Marijuana Enforcement Division to submit additional evidence and legal argument in writing.

2. In the event the State Licensing Authority determines that an evidentiary hearing or legal argument is necessary to a ruling on the petition, a hearing shall be conducted in conformance with section 24-4-105, C.R.S.
 3. In ruling on a petition, the State Licensing Authority may take administrative notice of general, technical or scientific facts within its knowledge, so long as the fact is specified in the record or is brought to the attention of the parties before final decision and every party is afforded an opportunity to controvert the fact so noticed.
 4. Every declaratory order shall be promptly decided and issued in writing, specifying the basis in fact and law for the order.
 5. The parties to any proceeding pursuant to this rule shall be the petitioner and the Medical Marijuana Enforcement Division. Any other interested person may seek leave of the State Licensing Authority to intervene in the proceeding and such leave may be granted if the licensing authority determines that such intervention will make unnecessary a separate petition for declaratory order by the interested person.
 6. The declaratory order shall constitute agency action subject to judicial review pursuant to section 24-4-106, C.R.S.
- E. A copy of any petition for a statement of position to the Medical Marijuana Enforcement Division and of any petition for a declaratory order to the State Licensing Authority shall be mailed, on the same day that the petition is filed with the Division or authority, to the individual county or municipality within which the petitioner's licensed premises, or premises proposed to be licensed, are located. Any petition filed with the Division or authority shall contain a certification that the mailing requirements of this paragraph have been met.
- F. Files of all petitions, requests, statements of position, and declaratory orders will be maintained by the Medical Marijuana Enforcement Division. Except with respect to any material required by law to be kept confidential, such files shall be available for public inspection.
- G. The Medical Marijuana Enforcement Division shall post a copy of all statements of positions or declaratory orders constituting final agency action on its web site.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-901, 16-2.5-121, and 16-2.5-124.5, C.R.S.

Basis and Purpose:

This rule clarifies existing law for the regulated community and reiterates that while MMED inspectors and their supervisors are on duty, they have the authority to enforce the requirements of the Code and other Colorado criminal laws because they are certified by the Peace Officer Standards and Training Board. This Board documents and manages the training and certification of all active peace officers and reserve peace officers working for Colorado law enforcement agencies, including the Department of Revenue.

Reg. _____, Duties of Inspectors and Medical Marijuana Supervisors.

The inspectors of the Medical Marijuana Enforcement Division and their supervisors, while actually engaged in performing their duties and while acting under proper orders or regulations, shall have and exercise all the powers vested in peace officers of this state. In the exercise of their duties, such inspectors and their supervisors shall have the power to detain and arrest. Such inspectors and their supervisors shall also have the authority to issue summons for violations of the provisions of this article and other criminal offenses found in Title 18 of the Colorado Revised Statutes.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

This rule sets forth the requirements for local law enforcement officers and MMED investigators when they obtain a warrant to search licensed premises and seize evidence. Nothing contained in this rule should be construed as an amendment or repeal of any of the criminal laws of Colorado. Insofar as this rule relates to those laws, it shall be considered a cumulative right of the people in the enforcement of such laws. The provisions of this rule should not be construed to limit or preempt the powers of any law enforcement officer or MMED investigator from engaging in their jobs.

12-47-905. Warrants - Searches and Seizures.

- A. If any authorized person makes an affidavit before the judge of any county or district court stating that he or she has probable cause to believe that marijuana, edibles, tinctures, oils, or other substances containing marijuana are being unlawfully manufactured, processed, cultivated, grown, produced, sold, distributed, stored, carried, conveyed, or possessed for any unlawful manufacture, sale, or distribution, or simply possessed or used in violation of Article 43.3 of Title 12, within or triable within the jurisdiction of said court, and describing in such affidavit the premises, location, vehicle, conveyance, or other property to be searched or seized, the judge of such court may issue a warrant to any officer, which the affiant may designate, commanding such officer to search or seize the premises, location, vehicle, conveyance, or other property described in such affidavit.
- B. Such warrant shall be substantially as provided for in the rules of criminal procedure or statutes of this state.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

This rule clarifies what will happen to medical marijuana and medical marijuana products when such items are properly seized by law enforcement officers. Section 12-43.3-202(2)(a)(IV), C.R.S., gives the State Licensing Authority the ability to promulgate rules regarding inspections, investigations, searches, seizures, and such additional activities as may become necessary from time to time.

43.3-906, Return on Warrant - Sale of Medical Marijuana Seized.

- A. If any marijuana, edibles, tinctures, oils, or other substances containing marijuana are there found, said officer shall be permitted to seize the same, together with any vessels, appliances, fixtures and contents of buildings, furniture, implements, equipment, contrivances, paraphernalia, automobiles, trucks, vehicles, conveyances of any kind, currency, negotiable instruments, securities, proceeds derived from violations, or any other things, devices or personal property directly or indirectly used or involved in, or derived from, or intend to be used or involved in, or derived from, violating any of the provisions of Article 43.3 of Title 12, C.R.S., and safely keep such property and make immediate return on such warrant. Such property shall not be taken from the custody of any officer seizing or holding the same by writ of replevin or other process while the proceedings relating thereto are pending.
- B. Final judgment of conviction in such proceedings, or any other final civil, criminal, or administrative judgment establishing that there is no valid claim of medical marijuana in relation to such property, shall be a bar to any suit for the recovery of any such property so seized or the value of the same or for damages alleged to arise by reason of such seizure or detention. The judgment entered shall find any such marijuana, edibles, tinctures, oils, or other substances containing marijuana to be unlawful and shall direct their destruction forthwith. The vessels, appliances, fixtures and contents of buildings, furniture, implements, equipment, contrivances, paraphernalia, automobiles, trucks, vehicles, conveyances of any kind, currency, negotiable instruments, securities, proceeds derived from violations, or any other things, devices or personal property directly or indirectly used or involved in, or

derived from, or intend to be used or involved in, or derived from, violations shall be ordered disposed of in the manner provided in §16-13-311, C.R.S or as otherwise provided for in this rule.

- C. The officer serving or executing the warrant shall forthwith proceed in the manner required for the institution of a criminal or civil action in the court issuing the warrant, or in any other court having jurisdiction, charging such violation of the law as the evidence in the case justifies. If such officer refuses or neglects to proceed, then the person filing the affidavit for the search warrant, or any other person, may so proceed.
- D. If, during trial of a person charged with a violation, the evidence presented discloses that marijuana, edibles, tinctures, oils, or other substances containing marijuana were burnt or otherwise destroyed, manifestly for the purpose of preventing seizure, the residue of marijuana, edibles, tinctures, oils, or other substances containing marijuana shall be held prima facie to contain marijuana, edibles, tinctures, oils, or other substances containing marijuana for unlawful manufacture, processing cultivation, growth, production, sale, distribution, storage, carrying, conveyance, or possession for any unlawful manufacture, sale, or distribution, or simple possession or use in violation of Article 43.3 of Title 12. If no person is in possession of the premises where seized property was found, the officer seizing such property shall post or leave in a conspicuous place on such premises a copy of the warrant, and if at the time fixed for any hearing concerning the property, or within thirty days thereafter, no person appears, the court in which the hearing was to be held shall order the property destroyed or sold in the manner provided herein.
- E. Any sale of contraband upon order of court pursuant to this section shall be conducted in the following manner:
 - 1. The officer ordered by the court to conduct the sale shall give notice of the time and place of the sale by posting a notice in a prominent place in the county for a period of five consecutive days prior to the day of the sale. The notice shall describe as fully as possible the property to be sold and shall state the time and place of the sale.
 - 2. The sale shall be conducted as a public auction in some suitable public place on the specified day at some time between the hours of 9 a.m. and 5 p.m., and the time chosen for the sale shall be indicated in the notice.
 - 3. No medical marijuana shall be sold at any time.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

This rule clarifies that if a licensee has marijuana that is not for medical use (and, therefore, is not acting in compliance with the Code), that marijuana is illegal contraband and the licensee has no right to it. In addition, the rule lays out the requirements for what must be done with any medical marijuana that exists when a licensee stops operations either voluntarily or otherwise.

43.3-907, Loss of Property Rights.

- A. Notwithstanding the provisions of section 14 of article XVIII of the state constitution, there shall be no property rights of any kind in any medical marijuana, edibles, tinctures, oils or other substances containing medical marijuana, vessels, appliances, fixtures, bars, furniture, implements, wagons, automobiles, trucks, vehicles, contrivances, or any other things or devices used in or kept for the purpose of violating any of the provisions of Article 43.3 of Title 12, C.R.S.
- B. Notwithstanding the provisions of section 14 of article XVIII of the state constitution, there shall be no property rights of any kind in any medical marijuana, edibles, tinctures, oils or other substances containing medical marijuana, vessels, appliances, fixtures, bars, furniture, implements, wagons, automobiles, trucks, vehicles, contrivances, or any other things or devices used in or kept for the purpose of violating any of the provisions of Article 43.3 of Title 12, C.R.S.
- C. Licensees or applicants shall give at least forty-eight (48) hours prior notice to the State Licensing Authority prior to ceasing operation, for any reason. This shall also include when a license is revoked or application is denied. If a licensed Medical Marijuana Center, medical marijuana infused product manufacture or optional premise cultivation operation or those under application cease operation the licensee shall account for and forfeit all medical marijuana or products containing medical marijuana to the State Licensing Authority in a manner defined by rule. The State Licensing Authority may take possession or cause to be destroyed any product so forfeited. The State Licensing Authority shall destroy all live Medical

Marijuana plants and shall not be obligated to maintain live plants in any manner. Persons failing to notify and forfeit under this section shall be subject to criminal offenses found in Title 18 of the Colorado Revised Statutes.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____. _____

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

The Code gives the State Licensing Authority the ability to create a range of penalties for when licensees violate the Code or rules. This issue was debated at length by the stakeholders. This rule is intended to be guidelines for the State Licensing Authority to consider when imposing a penalty. The rule also sets forth possible aggravating and mitigating factors for the State Licensing Authority's consideration.

43.3-xxx Penalties.

A. Purpose Statement.

The creation of recommendations for the imposition of penalties was mandated to the MMED in HB 10-1284 and debated at length by the MMED Rules Workgroup. Violations of Article 43.3 of Title 12 may also be violations of the Colorado Criminal Code under Article 18, of Title 18 of the Colorado Revised Statutes. Conviction of a drug related felony disqualifies persons from owning or having a financial interest in any medical marijuana license. Participants of the MMED Rules Workgroup recommend the following penalty guidelines to be considered during the imposition of a penalty. When imposing a penalty, it is recommended that the following penalty schedule be considered. Licensing authorities should also consider aggravating and mitigating factors surrounding the violation when imposing a penalty. Examples of these factors are included for your consideration. These actions must also be reported to the MMED for inclusion in the Enforcement Summary and other Legislative reports (§12-43.3-601(8), C.R.S.).

| <u>Code Violation:</u> | <u>Suspension/Abeyance</u> | <u>Fine Okay?</u> |
|---|-----------------------------------|--------------------------|
| 1. Sale to nonqualified persons. | | |
| First offense – 1 count | 30 & 15 | Fine Okay |
| Second offense within 1 year: | Go to Hearing | |

Note: Criminal charges should also be filed and upon conviction of a drug related felony the license must also be revoked.

Mitigation: 1st offense wherein the patient has been a regular and the licensee was shown prior identification and/or management was not involved. Patient registry card shown and had just expired.

Aggravation: No identification or registry card presented or checked and/or management involved.

2. Sale after Hours.

| | | |
|----------------|---------------------------|-----------|
| First offense | Written Warning - 10 days | Fine Okay |
| Second offense | 10 & 20 | |
| Third Offense | Go to Hearing | |

Mitigation: 1st offense occurring in close proximity to lawful business hours, i.e., 7:05 PM ; management was not involved with the sale made to the patron. Single, isolated offense

Aggravation: Management participated in or endorsed sale after the lawful hours; violation occurred well after the lawful hours, i.e., 3:00 AM; there were multiple offenses.

3. Failure to meet the 70/30 requirement.

| | | |
|--------------------------|--|-----------|
| 1st offense | Written warning – 10 days 4 months to correct | Fine Okay |
| Second offense in 1 year | 20/10 4 months to correct | Fine Okay |
| Subsequent offenses | Go to hearing | |

Mitigation: An audit reveals evidence of consistent compliance, grow was lost and sales reflect that licensee is generally very close to the 70/30 requirement. No prior violations; licensee has not been licensed for an extended period of time. Licensee is close to percentage requirement, but acquires marijuana from other licensed sources due to loss of grow.

Aggravation: Audit reveals little or no evidence of compliance. Licensee doesn't have a functioning grow; Licensee relies solely on purchases from external sources; multiple violations present.

4. Purchase of Marijuana from Unlicensed Sources.

First offense Go to Hearing

License should be revoked immediately as these violations are generally indicative of the presence of other criminal activity.

5. Unlawful Consumption/Medication on the Licensed Premises.

First offense 5 & 10 Fine Okay

Second offense Abeyance Time & up to 30 days

Third Offense Go to Hearing

Mitigation: 1st offense involving termination of the employee and management not directly involved.

Aggravation: Multiple offenses, long term investigation disclosing a pattern of violations and/or other criminal activity, management involved or aware of activity.

6. Failure to Maintain adequate Books and Records.

First offense Written warning - 10 days Fine Okay

Second offense 15 & 15

Third Offense Go to Hearing

Mitigation: Issue is disclosed through routine compliance inspection and absent hidden ownership allegations (small business owner who is a sloppy record keeper); no intent to deceive, etc.

Aggravation: Uncovered through investigation of complaint alleging hidden ownership. Records supporting allegation are missing, etc.

7. Violations on inspection issues detected within the previous year.

1 & 2 for each violation initially disclosed Fine (Internal assessment Okay)

Mitigation: Employee signed for warning and management was not directly involved in violation.

Aggravation: Management directly involved or directed employee to violate or not conform to request. Multiple offenses in a short time frame.

8. Failure to register or report manager, corporate or financial changes.

First offense Written warning - 30 Days. Fine Okay

Second offense Go to Hearing

Mitigation: Violations detected through routine inspection; violations resulting from recent statutory changes, i.e., managers, etc.; minor financial changes requiring reports which do not involve new persons.

Aggravation: Changes requiring a transfer of ownership resulting in hidden ownership or create unlawful financial interest/ownership.; Persons involved have an extensive record that has not been disclosed (intent) and may not otherwise qualify for a license.

9. Employing Underage Persons.

First offense 10 & 20 Fine Okay

Second offense To Hearing

Mitigation: . Licensee not directly involved with violation and employee did NOT have access to marijuana or limited access areas.

Aggravation: Management involvement with violation and/or employee had access to marijuana or limited access areas.

10. Hidden Ownership – Unlawful Financial Interest.

First offense 30 days to transfer or to Hearing

Mitigation: Change of entity involving same owners, i.e., husband and wife incorporated. License must be transferred to the new entity (Corporation). Issue Notice of Proposed Denial on new entity resulting in suspension with fine on 3 days. (3 day suspension) Fine OK.

Aggravation: True hidden ownership involving transfer of business assets to an unrelated 3rd party; ownership creates prohibited financial interest; business continues to operate. Show Cause should be issued for current Licensee. N.O.P.D. should be issued for new owner. If severe aggravation exists (Licensee fails to respond to allegations and take responsibility for business or new owner fails to comply and seek its own

license/temporary permit, etc.), recommend revocation of current license and denial of new owners license.

11. Failure to meet sanitary standards.

| | | |
|---------------|------|---------|
| First offense | 5-10 | Fine OK |
|---------------|------|---------|

| | | |
|----------------|-------|--|
| Second offense | 20/10 | |
|----------------|-------|--|

| | | |
|---------------|------------|--|
| Third offense | To Hearing | |
|---------------|------------|--|

Mitigation: Minor offense, management not involved. Issue resolved immediately.

Aggravation: On-going violations, health safety issues identified. Multiple patients filing complaints and being harmed by contaminants; management involved.

12. Failure to properly display credentials.

| | | |
|---------------|-------------|---------|
| First offense | Warning -10 | Fine OK |
|---------------|-------------|---------|

| | | |
|----------------|-------|-----------------|
| Second Offense | 10/20 | + Abeyance time |
|----------------|-------|-----------------|

| | | |
|---------------|------------|--|
| Third offense | To Hearing | |
|---------------|------------|--|

Mitigation: Person held valid license and forgot to display it. Management takes immediate action or detected violation and self reported. All medical marijuana properly accounted for.

Aggravation: Multiple offenses or multiple persons involved. Unlicensed persons present and/or management involvement or awareness. Medical marijuana inventory cannot be properly accounted for.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____. _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 12-43.3-901(4)(d), C.R.S.

Basis and Purpose:

The Code prohibits licensees from using false, misleading, or deceptive advertising, or advertising that is designed to appeal to minors. This rule reiterates that principle. In addition, the rule requires licensees' advertising to comport with local laws and regulations, which will ensure that the regulated community has notice that such laws and regulations exist. The State Licensing Authority intends this rule to help maintain the integrity of Colorado's medical marijuana businesses.

Regulation 43.3 - __1__ Medical Marijuana Center Sales.

A. Advertising Practices.

1. No Medical Marijuana Center licensee shall display upon or in proximity to, or referring to the licensed premises, use, publish or exhibit, or permit to be used, published, any sign, advertisement, display, notice, symbol or other device which are inconsistent with the local laws and regulations in which the licensee operates.
2. No Medical Marijuana Center licensee shall display upon or in proximity to, or referring to the licensed premises, use, publish or exhibit, or permit to be used, published, any sign, advertisement, display, notice, symbol or other device which uses misleading, deceptive, or false advertising.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

The Code gives the State Licensing Authority the ability to develop individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this article, including a fingerprint-based criminal history record check as may be required by the State Licensing Authority prior to issuing a card, and to create rules governing identification of state licensees and their owners, officers, managers, and employees. This rule clarifies that all employees of medical marijuana businesses must be licensed. While each licensee is responsible for maintaining his/her license, this rule also clarifies that business owners are also responsible for ensuring their employees are properly licensed.

Stakeholders raised concerns that there may be times when outside contractors will be needed to, for example, fix mechanical problems. The State Licensing Authority understands that such contractors are often needed on an emergency basis. Accordingly, the State Licensing Authority included a provision clarifying that such contractors do not need to be licensed.

Reg. 43.3 – 401. Occupational Licenses Required – Background Investigation.

- A. A person shall not be eligible to be employed or under contract by a licensee issued a license under Article 43.3 of Title 12, C.R.S., to be employed or contract to perform any work, employment or any other task for the licensed business, without first applying for and successfully obtaining a valid license issued by the Division.
 - 1. The following occupational (license) categories shall apply:
 - a. Key - persons performing duties that are key to the operations and have the highest level of responsibility (example in this category would be a Manager or Book Keeper);
 - b. Support - persons performing duties that support the operations of the licensee and while they have a responsibility to conduct themselves professionally they have limited decision making

authority and routinely fall under the supervision of a Key Employee (example in this category may be a sales clerk or cook); and

- c. Registration (businesses or persons performing other practices or duties in of for the operations of the licensee and while they have a responsibly to conduct themselves professionally they have no decision making authority for the licensee and always fall under the supervision of a Key Employee; Example in this category may be a laboratory or security system contractor).
2. The Director of the Medical Marijuana Enforcement Division shall establish appropriate sub-categories within each occupational (license) category to reflect the nature of the activity to be performed.
 3. Persons required to be licensed shall submit a completed application on forms furnished by the Division accompanied by the fee set by the licensing authority and obtain approval prior to commencement of activities permitted by such license.
 4. This rule shall not apply to any person employed or contracted to perform activities not directly related to the possession, cultivation, dispensing, selling, serving, delivering or giving of marijuana as permitted by law. By way of example, employment or contracts for services such as advertising, legal, emergency HVAC shall be exempt from licensure pursuant to this rule.
- B. Applicants for initial licensure and all renewal applicants shall be fingerprinted. Applicants shall also be fingerprinted if for any reason they have been asked by the Division to submit a new application. These reasons may include, but are not limited to, someone reapplying after more than one (1) year has elapsed since the expiration of the most recent license, if someone has been denied or revoked by an action of the State Licensing Authority or Division, or when additional information may be needed to proceed with a background investigation.
 - C. Any applicant for a license may be required to establish their identity and age by the presentation of a certified birth certificate and other valid identification containing a photograph as required for a determination of lawful presence.
 - D. All application forms supplied by the Division and filed by an applicant for license shall be accessible to local and state licensing authorities and any law enforcement agent.
 - E. It is the duty of each licensee to promptly advise the Division in writing of any change in their current mailing address with 10 days of any change.

- F. Every licensee and its supervisors shall be responsible for insuring that every employee or contractor is licensed with the Division .
- G. Licensees shall report any criminal actions, rule violations or other suspicious acts involving the sale, cultivation, distribution or manufacturing of medical marijuana or any medical marijuana infused products by any person immediately to the Division or Division Representative and shall cooperate in subsequent investigations. If an employee or contractor is discharged for alleged violations of the law or these regulations, the employer shall make every effort to insure that any employee or other persons so discharged surrender their license(s) as required by section 12-43.3-310(3).
- H. All licenses shall remain the property of the State Licensing Authority and shall be returned to the Medical Marijuana Enforcement Division upon demand of the State Licensing Authority, the Division, or its agents.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, and 12-43.3-313, C.R.S.

Basis and Purpose:

The General Assembly expects the MMED to prohibit and prevent the control of the outlets for the sale of medical marijuana by a person or party other than its licensees. This rule was adopted to help the MMED accomplish that prohibition by clarifying the criteria that should be evaluated by applicants and licensees when disclosing its financial information to the MMED. It also clarifies for the regulated community factors the MMED will consider to be dispositive of having a financial interest in a medical marijuana-related business.

Regulation 43.3-313. Unlawful Financial Assistance, Owner-Manager.

- A. Each license must be held by the owner of the licensed establishment.
"Owner" means the person or persons whose proprietary interest is such that they bear risk of loss other than as an insurer, and have opportunity to gain profit from operation or sale of the establishment.
In determining who is the owner, elements considered beside risk of loss and opportunity for profit include: (1) possession (2) who controls the licensee; (3) who guarantees the establishment's debts or production levels; (4) who is beneficiary under the establishment's insurance policies; and (5) who acknowledges liability for federal, state, or local taxes.
- B. Owners may hire managers, and managers may be compensated on the basis of profits made, gross or net. A Medical Marijuana Center, Optional Premises Cultivation or Infused Products Manufacturer license may not be held in the name of the manager.
- C. A spouse of a licensee may hold a license in his or her own right if he or she is the owner of the licensed establishment, regardless of whether the spouses file separate or joint income tax returns.
- D. A partnership interest, limited or general, a joint venture interest, ownership of a share or shares in a corporation or a limited liability company which is licensed, or having a secured interest in furniture, fixtures, equipment or inventory constitutes ownership and a direct financial interest. Unsecured notes or loans shall constitute an indirect financial interest and it shall be

unlawful to fail to completely report all financial interests in each license issued.

- E. Any person who guarantees production levels, yields, quantities produced or any other obligations of the licensee or its operation shall be deemed to have a financial interest.

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Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-307, 12-43.3-309, 12-43.3-310(12), and 12-43.3-901(3)(d), C.R.S.

Basis and Purpose:

The Code limits transfers of ownership for licensees and sets forth the requirements both local licensing authorities and the State Licensing Authority must consider when evaluating a request for such a transfer. This rule gives guidance to the regulated community and will help licensees know what forms need to be submitted to the MMED depending on the nature of the licensee's business (LLC, partnership, etc.). Such a rule is necessary to help the MMED evaluate whether applicants are legally eligible to hold licenses.

Regulation 43.3-304. Transfer of Ownership and Changes in Licensed Entities.

A. As it relates to Corporations and limited liability companies;

1. If the applicant for any license under Article 43.3 of Title 12, C.R.S., is a corporation or limited liability company, it shall submit with the application the names, addresses, and Key/Associated persons background forms of all of its principal officers, directors, or Managers, and a copy of its articles of incorporation or articles of organization; and evidence of its authorization to do business within this State. In addition, each applicant shall submit the names, addresses and Key/Associated person's background forms of all persons owning any of the outstanding or issued capital stock, or of any persons holding a membership interest.
2. Any proposed transfer of capital stock or any change in principal officers or directors of any corporation holding a license under the provisions of the Colorado Medical Marijuana Code shall be reported to the respective licensing authorities prior to such transfer or change. With the report, the licensee shall submit the names, addresses, and Key/Associated person's background forms for any new officer, director, or stockholder acquiring any outstanding capital stock.
3. Any proposed transfer of membership interest or any change in managers of any limited liability company holding a license shall be reported to the respective licensing authorities prior to such transfer or change. With the report, the licensee shall submit the names,

addresses, and Key/Associated person's background forms for any new manager, or member acquiring a membership interest.

B. As it pertains to Partnerships;

1. If the applicant for any license under Article 43.3 of Title 12, C.R.S., is a general partnership, limited partnership, limited liability partnership, or limited liability limited partnership, it shall submit with the application the names, addresses, and Key/Associated persons background forms of all of its partners and a copy of its partnership agreement
2. Any proposed transfer of partnership interest or any change in general or managing partners of any partnership holding a license shall be reported to the respective licensing authorities prior to such transfer or change. With the report, the licensee shall submit the names, addresses, and Key/Associated person's background forms for any new partner, or any other partner acquiring a partnership interest.

C. As it relates to Entity Conversions;

1. Any licensee that qualifies for an entity conversion pursuant to sections 7-90-201, C.R.S., et. seq., shall not be required to file a transfer of ownership application pursuant to section 12-43.3-309, C.R.S., upon statutory conversion, but shall submit a report containing suitable evidence of its intent to convert at least thirty (30) days prior to such conversion. Such evidence shall include, but not be limited to, any conversion documents or agreements for conversion at least ten (10) days prior to the date of recognition of conversion by the Colorado Secretary of State. In addition, prior to the date of the conversion, the licensee shall submit the names, addresses, and Key/Associated persons background forms of any new officers, directors, managers, general or managing partners, and all persons having an ownership interest.

D. All reports required by this regulation shall be made on forms supplied by the Department of Revenue, Medical Marijuana Enforcement Division.

E. No application for a transfer of ownership may be received or acted upon by either the state or local licensing authority if the previous licensee has surrendered its license and had it canceled by either local or state authority prior to the submission of the transfer application. In cases where cancellation has occurred prior to the submission of a transfer of ownership application, the license applicant shall follow the procedures for a new license application pursuant to section 12-43.3-305, C.R.S.

F. No change shall be effective as it pertains to any licensee, until and unless the proposed transfer of ownership has been approved by the appropriate local and state licensing authorities.

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Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-105, 12-43.3-201, 12-43.3-202, 12-43.3-901(3)(a), and 12-43.3-901(3)(b), C.R.S.

Basis and Purpose:

The Code requires that all areas of ingress or egress to limited access areas shall be clearly identified as such by a sign as designated by the State Licensing Authority. This rule clarifies what types of signs are acceptable.

Reg 43.3-xxx Limited Access Areas.

- A. All limited access areas must be identified by the posting of a sign which shall be a minimum of 12" X 12" which shall state in the English language 'Do Not Enter - Limited Access Area – Access limited to Licensed owners, employees and contractors only" in lettering no smaller than ½ inch.
- B. All limited access areas shall be clearly described by the filing of a diagram of the licensed premises reflecting walls, partitions, counters and all areas of ingress and egress. Said diagram shall also reflect all propagation, vegetation, flowering, hash manufacturing and all retail sales areas.
- C. Notwithstanding the requirements of subsection A of this regulation, nothing shall prohibit members of the state or local licensing authorities or law enforcement from entering a limited access area.

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Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-105, 12-43.3-201, 12-43.3-202, 12-43.3-901(3)(a), and 12-43.3-901(3)(b), C.R.S.

Basis and Purpose:

The Code requires all licensees to wear conspicuous badges at all times they are within the limited access area. The State Licensing Authority recognizes that there will be times when an unlicensed individual will need to be in the limited access area for matters unrelated to medical marijuana. For instance, a worker may be needed to fix an electrical problem. Accordingly, this rule was adopted to set forth the requirements that must be met when such a person must enter the limited access area. Such requirements will not only ensure that the MMED can properly regulate its licensees, but it will also help the licensees ensure that they know exactly whom is in their limited access areas at all times.

Reg 43.3 – 105, Display of License Required – Limited Access Area.

All persons in a limited access area as provided for in 12-43.3-105, C.R.S. shall be required to hold and properly display a current validated license badge issued by the Division at all times while in any limited access areas. To obtain a license a person may be photographed and fingerprinted. Failure of any person to properly display such a license badge may constitute grounds for discipline. Proper display of the license badge shall consist of wearing the badge at or above the waist, with the photo of the licensee readily visible to any observer. The licensee shall not alter, obscure, damage, or deface the badge, including the photographic image of the licensee, and any information contained or represented thereon, in any way.

All outside vendors, contractors or visitors must obtain a visitor identification badge, prior to entering a restricted or secure area, from a key licensee and shall be escorted at all times by that representative of the facility except as set forth and unless otherwise authorized by the Division Director. The visitor identification badge must be visibly displayed at all times while the visitor is in any limited access area. All visitors must be logged in and out, and that log shall be available for inspection by Division personnel at all times. All visitor identification badges shall be returned to the issuing facility upon exiting the limited access area.

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Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

This rule establishes minimum requirements for security alarm systems at each licensed medical marijuana premises and encourages alarm users and Alarm installation companies to properly use and maintain the operational effectiveness of security alarm systems in order to improve the reliability of security alarm systems and reduce or eliminate false alarms. The State Licensing Authority believes this rule will benefit both the regulators and the regulated community because licensed premises will be protected by alarms. The State Licensing Authority expects that break-ins will decrease as a result and that response times to break-ins will improve because a break-in will be immediately detected by an alarm.

43.3-xxx Security Alarm Systems.

A. Definitions.

1. **Alarm Administrator** means the Director of the MMED or his designee charged with recording the details of the Security Alarm Systems and approved Alarm Installation Companies and Monitoring Companies.
2. **Alarm Installation Company** means a Person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing a Security Alarm System in an Alarm Site.
3. **Security Alarm System** means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement response
4. **Alarm User** means any Person, who has contracted for Monitoring, repair, installation or maintenance service from an Alarm Installation Company or Monitoring Company for a Security Alarm System, or who

owns or operates a Security Alarm System which is not monitored, maintained or repaired under contract.

5. **Arming Station** means a device that allows control of a Security Alarm System.
6. **Automatic Voice Dialer** means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system, to a law enforcement, public safety or emergency services agency requesting dispatch.
7. **Duress Alarm** means a silent Security Alarm System signal generated by the entry of a designated code into an Arming Station in order to signal that the Alarm User is being forced to turn off the system.
8. **Holdup Alarm** means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.
9. **License** means a license issued by the State of Colorado or local government to an Alarm Installation Company or Monitoring Company to sell, install, monitor, repair, or replace Security Alarm Systems.
10. **Local Security Alarm System** means any Security Alarm System, which is not monitored, that annunciates an alarm only at the Alarm Site.
11. **Monitoring** means the process by which a Monitoring Company receives signals from a Security Alarm System and relays an Alarm Dispatch Request to a law enforcement agency for the purpose of summoning an officer to the Alarm Site.
12. **Monitoring Company** means a Person in the business of providing Monitoring services at a central monitoring station 24 hours a day.
13. **One Plus Duress Alarm** means the manual activation of a silent alarm signal by entering at an Arming Station a code that adds one to the last digit of the normal arm/disarm code (e.g., normal code = 1234, One Plus Duress Code = 1235)
14. **Panic Alarm** means an audible Security Alarm System signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring a deputy's response.
15. **Person** means an individual, corporation, partnership, association, organization or similar entity.

16. **SIA Control Panel Standard CP-01** means the ANSI – American National Standard Institute approved Security Industry Association – SIA CP-01 2007 Control Panel Standard that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations, will be marked to state: “Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction”.
17. **Zones** means division of devices into which a Security Alarm System is divided to indicate the general location from which a Security Alarm System signal is transmitted.

B. Duties of the Alarm User and Alarm Installation Companies.

1. At a minimum, each licensed medical marijuana premises with have a closed-circuit Security Alarm System on all perimeter entry points and perimeter windows installed by a Security Installation Company and monitored by a Monitoring Company. Motion detectors, pressure switches, Duress, Panic and Hold Up Alarms may also be utilized.
2. The Alarm User will report the location of each Security Alarm System, the Alarm Installation Company and the Monitoring Company to the Alarm Administrator.
3. Alarm Installation Companies:
 - a. shall not program Security Alarm Systems so that they are capable of sending One Plus Duress Alarms;
 - b. shall not install a device to activate a Holdup Alarm, which is a single action, non-recessed button;
 - c. shall use only alarm control panel(s) which meet SIA Control Panel Standard CP-01; and
 - d. shall not use Automatic Voice Dialers.
4. An Alarm User shall:
 - a. maintain the Alarm Site and the Security Alarm System in a manner that will minimize or eliminate False Alarms;
 - b. make every reasonable effort to have a Responder to the Security Alarm System's location within **30 minutes** when requested by the law enforcement agency in order to:
 - (1) deactivate a Security Alarm System;
 - (2) provide access to the Alarm Site; and/or
 - (3) provide alternative security for the Alarm Site.

- c. not activate a Security Alarm System for any reason other than an occurrence of an event that the Security Alarm System was intended to report.
5. An Alarm User shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an Alarm Site will sound for no longer than ten (10) minutes after being activated.
6. An Alarm User shall have an Alarm Installation Company inspect the Security Alarm System after two (2) False Alarms in a one (1) year period. The Alarm Administrator may waive a required inspection if it determines that a False Alarm(s) could not have been related to a defect or malfunction in the Security Alarm System. After four (4) False Alarms within a one (1) year period, the Alarm User must have an Alarm Installation Company modify the Security Alarm System to be more false alarm resistant or provide additional user training.
7. An Alarm User shall maintain at each Alarm Site, a set of written operating instructions for each Security Alarm System.
8. An Alarm User will report all false and real alarms to the Alarm Administrator.

C. License or licensing.

All Alarm Installation Companies and Monitoring Companies shall maintain a License, if required by the State of Colorado or local licensing authority.

D. Duties and Authority of the Alarm Administrator.

1. The Alarm Administrator shall:
 - a. approve Alarm Installation Companies and Monitoring Companies prior to them being utilized by the Alarm User.
 - b. maintain a record of all Alarm Users, Alarm Sites, their Installation Company and Monitoring Company.
 - c. maintain date and time records of false alarms and work with the Alarm user and the Alarm Installation Company to minimize false alarms.

E. Confidentiality.

Unless otherwise provided by law, all records maintained by the Alarm Administrator shall be held in confidence by all employees or representatives of the MMED.

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Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

This rule establishes minimum requirements for lock standards in medical marijuana licensed premises as defined in section 12-43.3-401, C.R.S., to encourage positive protection of medical marijuana licensed premises against unauthorized entry, to deter intruders and further provide for the public safety.

43.3-xxx Specifications for Lock Standards in Medical Marijuana Licensed Premises.

A. Minimum Requirements.

Commercial-grade II, non-residential locks are required at all point of ingress/egress, as well as the security room or area.

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Regulation 43.3-

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

This rule outlines the functional and performance requirements for a complete video surveillance and recording system within all medical marijuana licensed premises as deemed necessary to ensure control by the State Licensing Authority. This specification includes image acquisition, video recording, management and monitoring hardware and support systems. This rule gives the regulated community notice of the minimum requirements for such systems and ensures that the MMED can effectively regulate its licensees. In addition, the rule will help licensees ensure their businesses' safety by requiring 24-hour monitoring.

Stakeholders raised numerous concerns about this rule. Many of the concerns were about the cost of the systems and were afraid the price would be prohibitive. In response, the MMED met with stakeholders and industry representatives and significantly pared down the requirements between August and December, 2010. The State Licensing Authority believes the resulting rule is fair to the licensees and will enable the MMED and local law enforcement officers to effectively do their jobs.

43.3-xxx Specifications for Video Surveillance and Recording of Medical Marijuana Licensed Premises.

A. STATEMENT OF PURPOSE.

This regulation outlines the functional and performance requirements for a complete video surveillance and recording system within all medical marijuana licensed premises as deemed necessary to ensure control by the State of Colorado. This specification includes image acquisition, video recording, management and monitoring hardware and support systems.

Submission of all system information, system layout, and remote access information must be submitted to the MMED using an "MMED Secure Facility submission/Application Form." All systems shall be subject to the approval of (MMED).

B. SURVEILLANCE SYSTEM STANDARDS.

1. GENERAL.

- a. Surveillance system standards apply to all licensed categories in section 12-43.3-401, C.R.S. in which medical marijuana is possessed, stored, grown, harvested, cultivated, cured, sold, or where laboratory analysis is performed.
- b. Licensees with limited access areas as defined in Article 43.3 of Title 12, C.R.S., shall be required to install a video surveillance and camera recording system that is fully digital and meets the requirements outlined in this section by July 1, 2011.
- c. All surveillance systems and camera coverage areas must be physically inspected for compliance and receive approval from the MMED prior to being utilized. After the initial approval, the licensee and the MMED shall approve all modifications to any approved cameras prior to any changes.
- d. All personnel installing, cleaning, maintaining and repairing surveillance equipment on site must be licensed by the MMED.
- e. Time is to be measured in accordance with the official United States time established by the National Institute of Standards and Technology and the U.S. Naval Observatory at <http://www.time.gov/timezone.cgi?Mountain/d/-7/java>.
- f. Licensees are responsible for ensuring all surveillance equipment is properly functioning and the playback quality meets MMED requirements
- g. The licensee must have all documentation, approvals, and variances, or copies thereof, relating to surveillance, kept in a locked room or locked secure area, and all documentation, approvals, and variances, or copies thereof shall be available to the MMED upon request. No cultivation operations shall occur within this room or secure area which may damage the system due to high temperature or humidity conditions.
- h. Wireless connections for cameras are permitted that use wireless G or N protocol (2.4 gigahertz minimum). The MMED may approve others that contain the same or higher security encryption protocol.

2. DEFINITIONS.

- a. Blue-ray Disc – a high-density optical disc format for the storage of digital media, including high-definition video.
- b. CIF – Common Interface Format - defines a frame rate of 30000/1001 (roughly 29.97) in NTSC format.
- c. Critical areas - include all limited access areas, points of ingress/egress and all active and inactive point of sale areas.
- d. DVI – digital visual interface. DVI is a video interface standard designed to maximize the visual quality of digital display devices such as flat panel LCD computer displays and digital projectors.
- e. DVR – digital video recorder. See ‘MMED Approved DVR/NVR List.’
- f. Fields – one field is defined as half of one frame. See ‘MMED Approved DVR/NVR List.’
- g. FPS – frame rate or frame frequency per second. FPS is the measurement of the frequency (rate) at which an imaging device produces unique consecutive images called frames. Each frame consists of two fields.
- h. IP – Internet Protocol – network-layer (Layer 3) protocol that contains addressing information and some control information that enables a remote network connection.
- i. Port – port number to be used in conjunction with the IP address for remote connectivity.
- j. Megapixel camera – a camera capable of capturing an image containing at least 1 million pixels.
- k. NVR - Network Video Recorder
- l. Size of monitor – the display area measured diagonally and excludes the cabinet.
- m. Surveillance Room - Secure area away from unlicensed personnel where video recoding equipment is installed and operated. DVR/NVR shall be housed in a secure locked box.
- n. PTZ - pan-tilt-zoom camera; or PT - pan-tilt camera.

- o. Fixed Cameras – a fixed camera which once installed and approved by the MMED, cannot be moved or modified to change the angle or field of view.
- p. TVL – total video lines of resolution.
- q. MMED approved standards and approved DVR/NVR list – Document provided by the Medical Marijuana Enforcement Division to licensees and licensed security providers, to give examples of required camera views, angles and clarity. Additionally, it shall provide a list of approved DVR/NVR recorders that meet the minimum standards as set forth in this rule.

3. SPECIFIC STANDARDS.

Fixed position or remote video cameras will be network accessible using MMED Approved DVR/NVR software or be IP in design and shall meet or exceed the following minimum specifications:

| | Analog Cameras | | |
|---------------------------|-----------------------|-----------------------|---------------------------------|
| | Interior Fixed | Exterior Fixed | Pan Tilt / Pan Tilt Zoom |
| Min Resolution | 480TVL | 480TVL | 480TVL |
| Image Sensor | 1/3" CCD | 1/3" CCD | 1/4" CCD |
| Min. Illumination | .1 Lux | .01 Lux | .1 Lux |
| Auto Gain Control | Yes | Yes | Yes |
| Auto White Balance | Yes | Yes | Yes |
| Power Req. | 12V DC/ 24V AC | 12V DC/ 24V AC | 12V DC/ 24V AC |
| Day/Night Required | Yes | Yes | No |
| Radiant Distance | 20 ft | 40 ft | |
| Zoom Factor | | | 10 Times (PTZ Only) |
| Auto Focus | | | Yes |
| Housing Rating | Dependant on Location | IP67 | IP66 |
| Heater/Blower | | Optional | Optional |

| | IP Cameras | | |
|--|-----------------------|-----------------------|---------------------------------|
| | Interior Fixed | Exterior Fixed | Pan Tilt / Pan Tilt Zoom |

| | | | |
|---------------------------|-----------------------|----------------------|----------------------|
| Min Resolution | 640 X 480 | 640 X 480 | 640 X 480 |
| Image Sensor | 1/3" CCD | 1/3" CCD | 1/4" CCD |
| Video Compression | H.264 | H.264 | H.264 |
| Frame Rate | 30fps | 30fps | 30fps |
| Min. Illumination | .1 Lux | .01 Lux | .1 Lux |
| Auto Gain Control | Yes | Yes | Yes |
| Auto White Balance | Yes | Yes | Yes |
| Power Req. | 12V DC/ 24V AC / POE | 12V DC/ 24V AC / POE | 12V DC/ 24V AC / POE |
| Day/Night Required | Yes | Yes | No |
| Radiant Distance | 20 ft | 40 ft | |
| Zoom Factor | | N/A | 10 Times (PTZ Only) |
| Auto Focus | | N/A | Yes |
| Housing Rating | Dependant on Location | IP67 | IP66 |
| Heater/Blower | | Optional | Optional |

4. EQUIPMENT.

- a. All new and replacement cameras for critical areas and the PTZ cameras within those areas must meet minimum requirements as set forth in Specific Standards, section 3 above.
- b. Megapixel cameras are allowed, as long as the camera interfaces with the licensee's current surveillance system. If a megapixel camera is used autonomously from the primary DVR/NVR system, direct remote network connection information must be submitted to the MMED.
- c. At least one 19" or greater call up monitor attached to the DVR/NVR or a playback station with a 19" monitor or greater is required and must be accessible to DVR/NVR controls for playback operation.
- d. All other monitors must have a minimum resolution of 1280 x 1024.
- e. All cameras must be viewable in multiplex mode from a 19" or greater monitor when used in critical areas and be able to pull a single camera (live and on playback).

- f. The licensee must have a failure notification system that provides an audible and/or ext and visual notification of any failure in the surveillance system. The Failure Notification system must provide an alert to the licensee within five minutes of the failure, either by phone, email, or SMS alert contact.
- g. The licensee must be able to immediately produce a clear color still photo from any camera image (live or recorded). Each facility shall have a minimum of one color printer that produces a minimum of 9600 dpi.
- h. PTZ cameras must be 360 degree functional in customer areas and must be enclosed in a shaded housing, so that it is hidden from view. PT or PTZ camera that are mounted adjacent to walls must have a minimum of 270 degrees of functionality.
- i. After July 1, 2011, the use of multiplexer and quad recorders is not authorized in any area.
- j. A date/time must be embedded on all recordings of customer areas. The date and time must be synchronized and set correctly and must not significantly obscure the picture.
- k. All recordings are strictly required to be erased or destroyed prior to disposal, sale to another licensee or manufacturer, or when discarded by any other means.

5. PLACEMENT OF CAMERAS/REQUIRED COVERAGE.

- a. All camera placements shall be inspected and approved prior to issuance of a satisfactory inspection report by the state licensing authority. The MMED shall provide documented examples of required camera views, angles and clarity.
- b. All limited access areas, point of sale areas, security rooms/areas and all points of ingress/egress to limited access areas and all points of ingress/egress to the exterior of the licensed premises must have fixed camera coverage capable of identifying any activity occurring within a minimum of twenty (20) feet of all entry and exit points.
- c. A single fixed camera shall be placed above at each Point of Sale location allowing for the clear and certain identification of the transacting individual and related identification. A single fixed camera shall be placed at above each Point of Sale location

allowing for the recording and recognition of any transacting individuals identification and medical marijuana removed from the premises. This will be accomplished by temporarily placing the authorized identification, and registry card in a 12" x 12" area on the counter top, where they will be captured from the above mounted camera. In addition, all medical marijuana shall be placed on an Department of Agriculture approved and calibrated weight scale so that the amount removed from the licensed premises may be captured from the above mounted camera. As an alternative, a licensed center may, through their point of sale system, if it can simultaneously capture fixed images of the transaction and the individual making the purchase. For all transactions time, date, amount and weight of purchase, and identifying registry number shall be captured with the transaction and overlaid on the POS transaction or text overlay on the video transaction.

- d. All entrances and exits to the facility shall be recorded from both indoor and outdoor vantage points, and capable of clearly identifying the individual entering or exiting the facility.
- e. The system shall be capable of clearly identifying any activities occurring within the facility or within the grow rooms in low light conditions.
- f. Areas where medical marijuana is grown, cured or manufactured shall have a camera placement in that of the room facing the primary entry door, and in adequate fixed positions, at a height which will provide a clear unobstructed view of the regular activity without a sight blockage from lighting hoods, fixtures, or other equipment, allowing for the clear and certain identification of persons and activities therein at all times.
- g. Cameras shall be placed at each location where weighing, packaging or tagging activities occur. These cameras shall allow for the clear and certain identification of all individuals and actives therein at all times.
- h. All limited access or critical areas shall have sufficient fixed cameras allowing for the clear and certain identification of any transacting individual(s) in that area per defined MMED approved standards and approved DVR/NVR list.

- i. All outdoor optional premises growing areas must meet the same requirements for any other limited access areas or other low light areas.

6. OTHER STANDARDS.

- a. All camera views of customer areas must be continuously recorded 24 hours a day. The use of motion detection is authorized with a minimum of ten (10) second pre and post- event recording.
- b. Complete index and guide to the center cameras, technical documentation, monitors and controls must be available in the surveillance room. This guide must include a map of the camera locations, direction of coverage, camera numbers and operating instructions for the surveillance equipment.
- c. A chronological POS transaction log must be made available to be used in conjunction with recorded video of those transactions.
- d. All surveillance recordings must be kept for a minimum of 20 days on your recording device (DVD, NVR) AND an additional consecutive 20 days must be kept on a cd or external hard-drive.
- e. Access to surveillance rooms shall be limited to employees that are essential to surveillance operations, law enforcement agencies, service personnel, and others when approved by MMED. The facility or surveillance room manager has final authority regarding the authorization of access by center personnel, except when the MMED requires or authorizes access. A current list of authorized employees and service personnel that have access to the surveillance room must be posted in the surveillance room. All activity (maintenance work, electronic work, etc.) shall be logged in a manner approved by the MMED. Offsite monitoring, management and storage by the licensee or independent company shall be allowed as long as they meet or exceed all standards for onsite monitoring. Independent companies and their employees shall be licensed by the State Licensing Authority.
- f. Each cooperative center must have a surveillance room in-house. Exceptions would only be for commonly owned centers, which are within the same municipality. The surveillance room must be within one of the commonly owned centers. The center will provide a review station, printer, map of cameras, and communication in the property that does not house the surveillance room if the centers are not contiguous. All equipment and security standards in the

review station room will meet the minimum criteria set forth by this section.

- g. Surveillance rooms must remain locked. Licensees that have other functions housed in the surveillance room must receive MMED approval. At least one surveillance camera must be in the surveillance room or view access to the surveillance area and record and be able to clearly identify any person who accesses any surveillance or non-surveillance equipment. At a minimum off site transfer and storage of data from this camera must be maintained for 72 hours.
- h. Surveillance recordings and clear still photos must be made available to the MMED and law enforcement personnel upon request.

7. DIGITAL VIDEO RECORDING AND MANAGEMENT.

- a. All video signals shall be recorded in either a DVR, Hybrid DVR or a NVR capable of meeting or exceeding the following specifications. The MMED will maintain a list of approved DVR, Hybrid DVR and NVR all such installed equipment must be on the approved list to meet requirements.
- b. All recorded resolutions for cameras shall be at least 1CIF (704 x 288.)
- c. All camera recording shall have a recorded frame rate of at least 15 (frames per second) fps when motion is detected in the image.
- d. Video shall be recorded with acceptable resolution and image quality showing less than 5% of artifacting across the recorded image.
- e. The video recording shall allow for the exporting of still images in an industry standard image format (.jpg, bmp, gif, etc.)
- f. Recordings must have the ability to be archived to DVD-R, CD-R, Blue Ray or USB Drive as required by the MMED.
- g. Exported video must have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place.
- h. A freely distributable standalone player must be available.

- i. Exported video must also have the ability to be saved in an industry standard file format that can be played on a standard PC using either Apple QuickTime or Windows Media Player.

8. VIDEO CAMERA HOUSINGS AND MOUNTS.

- a. All cameras shall be in a housing coordinated with the facility to ensure proper operation in all anticipated conditions.
- b. All housings shall be sufficiently moisture resistant to withstand any environmental conditions expected in their specified location.
- c. All cameras located in areas where conditions are subject to extremes temperatures shall be in housings equipped with heaters and/or blowers as required.
- d. All housings must allow for sufficient room for ease of servicing and adjustment to each camera.
- e. All mounts holding devices exceeding 5 pounds in weight shall be equipped with a safety cable attached to nearby structure or be properly mounted using anchors which are properly weight rated.
- f. Outdoor camera housings must be rated International Protection Rating of 67 or above.

9. CABLING.

- a. All cabling for camera transmission should be unshielded twisted pair Category 5e or RG-59u cable coupled with low-voltage cable (Siamese cable.)
- b. All cabling shall be Ethernet compliant and shall conform to the Ethernet guidelines for distance and installation on all IP-based cameras.

10. REMOTE VIDEO MONITORING AND RETRIEVAL.

- a. The DVR or NVR system shall be capable of providing remote viewing via the internet of both live and recorded video.
- b. DVR or NVR systems shall be approved by the MMED.
- c. DVR or NVR must allow for remote connection and control over all cameras.

- d. Internet Connectivity must allow for at least 384k upstream.
- e. Static IP address and port or a web based application with a user name and password control is required to allow for remote connection to the DVR/NVR(s).

11. POINT OF SALE INTERGRATION/OVERLAY.

- a. Systems not utilizing Point of Sale (POS) photo capture shall be capable of overlaying the video with data from on premise point of sale systems.
- b. The overlay data shall allow for manual verification of the transaction with the associated video.

12. POWER BACKUP.

- a. All cameras, recording equipment and associated network switching shall have sufficient battery backup to support fifteen (15) minutes of recording in the event of a power outage.

The MMED must have full control capability over camera operation over all other remote access service equipment located outside of the surveillance room.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

The Code gives the State Licensing Authority the ability to regulate the storage of, warehouses for, and transportation of medical marijuana. This rule clarifies that medical marijuana warehouses need permits and that they are subject to video monitoring. The rule also limits the ability of transfer of medical marijuana to and from permitted warehouses and prohibits the sale of medical marijuana from such warehouses. The State Licensing Authority intends for this rule to provide clarity to the regulated community.

Regulation xxxx. Storage - Warehouse Storage Permit.

- A. No medical marijuana shall be stored or kept in or upon any premises which shall not be duly licensed, provided however, that the State Licensing Authority, upon approval by the local licensing authority, may issue a warehouse storage permit to licensees for the storage of permitted medical marijuana in one location other than the licensed premises.

No such permit shall be granted in any county or municipal jurisdiction that has made a legislative determination not to engage in licensing under the Colorado Medical Marijuana Code or where registered electors have voted to prohibit the cultivation or sale of medical marijuana.
- B. Title to all medical marijuana stored or kept pursuant to a warehouse storage permit shall be vested in such permit holder.
- C. Medical marijuana may not be sold or delivered from the premises used pursuant to a warehouse storage permit.
- D. Any licensee obtaining a warehouse storage permit shall provide a copy of said permit to the local licensing authority and display such permit and a copy thereof, in a prominent place within their licensed premises and within the permitted storage premises.
- E. Any storage warehouse storing medical marijuana must meet all video and security requirements as any other licensed premises.

- F. Any medical marijuana stored in a storage warehouse licensed premises shall be packaged, sealed, weighed and recorded on video before it is transported directly to or from the storage warehouse directly from or to the primary licensed premises only. Any discrepancy in weight shall be documented and reported to the MMED within twenty-four (24) hours. It shall be unlawful to open a pre-sealed package of medical marijuana except upon the primary licensed premises.
- G. Any medical marijuana removed from a Licensee's Optional Premises Cultivation licensed premises may only be transported directly to the Licensee's Medical Marijuana Center or its Infused Products Manufacturer's licensed premises on file and registered as required by law. Said marijuana shall be weighed and prepackaged on video upon the licensed premises before it is transported. All persons transporting said medical marijuana shall be licensed or registered as provided in section 12-43.3-401, C.R.S.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

The State Licensing Authority recognized the need for a rule that clarifies how medical marijuana can be transported throughout Colorado. In addition, stakeholders expressed concern that if there was not a rule regarding transportation, then they would potentially be subjecting themselves to criminal and civil punishments if law enforcement stopped them while they were transporting medical marijuana.

Two main components of this rule are that the rule clarifies that those that transport medical marijuana must be licensed and that medical marijuana can be transported through public roads in municipalities that have banned medical marijuana centers and grows. The State Licensing Authority believes those clarifications will help the regulated community.

Reg 43.3-_____. Transportation – Authorization and licenses required.

- A. No person shall transport Medical Marijuana or Medical Marijuana Infused Products pursuant to section 12-43.3-310(5), C.R.S. and these rules without first being licensed by the State Licensing Authority.
- B. All non infused Medical Marijuana shall be packaged in a sealed package or container approved by the MMED for transportation. Each container shall be packaged and weighed prior to leaving the origination location. Each container shall be sealed by approved tamperproof tape and each tagged and labeled pursuant to these rules.
- C. All Medical Marijuana Infused Products shall be packaged in a sealed package or container approved by the MMED for transportation. Each container shall be packaged and all items shall be inventoried and accounted for on video prior to leaving the origination location. Each container shall be sealed and each item tagged and labeled as required in these rules.
- D. Transportation of Medical Marijuana or Medical Marijuana Infused Products shall in all instances be accompanied by a manifest that is approved by the MMED. The manifest shall be created online and a printed copy shall be

carried at all times with the products being transported. The licensee shall complete and submit a form provided by the MMED, in cases where an electronic record cannot be recorded or evidence printed. That form shall be submitted via fax prior to any transportation of Medical Marijuana or Medical Marijuana Infused Products. The manifest shall include the following:

1. Name of the licensee;
2. Date completed;
3. Name, location and license number of the origination location;
4. Name, location and license number of the destination(s) location(s);
5. Products and quantities being delivered to each location if more than one;
6. Date and approximate time of departure;
7. Date and estimated time of arrival;
8. Route to be traveled;
9. Vehicle make and model, together with license plate number;
10. Name and signature of person transporting product; and
11. Date.

- E. When determining and reporting the route to take, licensees should select the best direct route that provides efficiency and safety. When Medical Marijuana or Medical Marijuana Infused Products are transported in the manner described by the MMED through these regulations, it may be transported on any public road through any city, town, city and county or county, whether or not that city, town, city and county or county has allowed for Medical Marijuana Licensees to operate there.

**Statement of Basis, Purpose and Statutory Authority
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1 CCR 212

Regulation 43.3-_____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 12-43.3-404(4), C.R.S.

Basis and Purpose:

This rule sets forth basic sanitary requirements for infused products manufacturers. It covers the physical premises where the products are made as well as the individuals handling the products. The State Licensing Authority intends for this rule to reduce any product contamination, which will benefit both the licensees and the patients. The State Licensing Authority mirrored this rule after those used by the Colorado Department of Public Health and Environment.

Regulation 43.3-xxx Sanitary Requirements.

A. Definitions:

1. "Employees" - for purposes of this regulation, means any person working at any premises licensed pursuant to section 12-43.3-401 C.R.S., , who transports medical marijuana, infused products or medical marijuana infused product containers, who engages in preparation or service, or who comes in contact with any medical marijuana, medical marijuana infused product utensils or equipment.
2. "Medical Marijuana Infused Product" - shall be as defined in 12-43.3-104(9).
3. "Sanitization" – for purposes of this regulation, means the application of cumulative heat or chemicals on cleaned surfaces that when evaluated for efficacy, is sufficient to yield a reduction of 5 logs, which is equal to 99.999% reduction, of representative disease organisms of public health importance. Chemicals approved for use as a sanitizer can be found at Food and Drug Administration, Department of Health and Human Services, 21 C.F.R. 178.1010 (2010).

B. The Licensee shall take all reasonable measures and precautions to ensure the following:

1. That any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility contact with preparation surfaces for medical marijuana or medical marijuana infused products (MIPs) shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
2. That all persons working in direct contact with preparation of medical marijuana or MIPs shall conform to hygienic practices while on duty, including:
 - a. Maintaining adequate personal cleanliness.
 - b. Washing hands thoroughly in an adequate hand-washing area(s) before starting work and at any other time when the hands may have become soiled or contaminated.
 - c. Hand-washing facilities shall be adequate and convenient and be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the facility in MIP preparation areas and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.
3. That there is sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations for production of medical marijuana or MIPs.
4. That litter and waste are properly removed, and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where medical marijuana or MIPs are exposed.
5. That floors, walls, and ceilings are constructed in such a manner that may be adequately cleaned and kept clean and kept in good repair.
6. That there is adequate safety-type lighting in all areas where medical marijuana or infused product is processed or stored, and where equipment or utensils are cleaned.
7. That the facility provides adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor, minimize the potential for the waste becoming an attractant and harborage or breeding place for pests.

8. That buildings, fixtures, and other physical facilities of the facility are maintained in a sanitary condition.
9. That all contact surfaces, including utensils and equipment used for preparation of medical marijuana or MIPs shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only EPA registered sanitizing agents shall be used in medical marijuana or MIPs facilities and used in accordance with labeled instructions.
10. That toxic cleaning compounds, sanitizing agents, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of medical marijuana or MIPs.
11. That the water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be from a water source that is capable of providing a safe, potable and adequate supply of water to meet the facilities needs.
12. That plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the plant; and properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines.
13. That each facility shall provide its employees with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and good repair.
14. That all operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging, and storing of medical marijuana or MIPs shall be conducted in accordance with adequate sanitation principles.
15. That medical marijuana or MIPs that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
16. That storage and transportation of finished medical marijuana or MIPs shall be under conditions that will protect medical marijuana or MIPs against physical, chemical, and microbial contamination as well as against deterioration of the medical marijuana or MIP and the container.

17. That all sanitary requirements shall also apply to any person making hashish on the premise of an Optional Premise Cultivation licensee. Production of water based hashish may only be made in an area so designated clearly on the diagram of the premises on file with the licensing authority. All other methods of extraction shall meet these standards and only be produced in a Medical Marijuana-Infused Product Manufacturer.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

Section 12-43.3-202(2)(a)(XII), C.R.S., of the Code gives the State Licensing Authority the ability to promulgate a rule regarding sanitary requirements associated with the liquid and solid wastes that are the bi-products of the preparation of medical marijuana. This rule ensures that liquid wastes associated with the preparation of medical marijuana-infused products are properly disposed, thereby ensuring Colorado's waters are not negatively impacted by such preparation. In addition, this rule sets forth how solid medical marijuana waste must be disposed, thereby ensuring that such waste is not mixed with general trash.

Reg 43.3-_____Waste Disposal.

- A. Medical marijuana waste must be stored, secured and managed in accordance with Department of Revenue (DOR) and other applicable state statutes and regulations.
- B. Medical marijuana waste must be stored secured and managed in accordance with local and state regulations, ordinances and other requirements.
- C. Liquid waste from medical marijuana facilities shall be disposed of in compliance the applicable Water Quality Control Division statutes and regulations.
- D. Medical marijuana waste must be made unusable prior to leaving a registered facility's (i.e. grow operation, medical marijuana dispensary, marijuana infused product supplier) secured storage and management area.
- E. Medical marijuana waste shall be rendered unusable through the following methods:

1. by grinding and incorporating the medical marijuana waste with non-consumable, solid wastes listed below such that the resulting mixture is at least fifty percent non marijuana waste:
 - a. Paper waste,
 - b. Plastic waste,
 - c. Cardboard waste,
 - d. Food waste,
 - e. Grease or other compostable oil waste,
 - f. Bokashi, or other compost activators,
 - g. Other wastes approved by DOR that will render the medical marijuana waste unusable;
 - h. Soil.
 2. by incorporating the medical marijuana waste with non-consumable, recyclable solid wastes listed below:
 - a. Grease or other compostable oil waste,
 - b. Bokashi, or other compost activators,
 - c. Other wastes approved by DOR that will make the medical marijuana waste unusable.
- F. After the medical marijuana waste is made unusable, then the solid waste shall be:
1. Disposed of as a solid waste at solid waste site and disposal facility that has a Certificate of Designation from the local governing body and that is approved by DOR,
 2. Deposited at a compost facility that has a Certificate of Designation from the Department of Public Health and Environment and approved by DOR,
 3. Composted on-site at a facility owned by the generator and operated in compliance with the Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) in the Colorado Department of Public Health and Environment.

**Statement of Basis, Purpose and Statutory Authority
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1 CCR 212

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 12-43.3-402(5), C.R.S.

Basis and Purpose:

The Code requires Medical Marijuana Center employees to verify that the purchaser has a valid registration card issued pursuant to section 25-1.5-106, C.R.S., and a valid picture identification card that matches the name on the registration card. Accordingly, this rule was adopted to explain exactly what types of picture identification cards can be accepted. Not only will this rule alleviate any confusion on the part of center employees, but it will help reduce the amount of fraudulent transactions, thereby helping to maintain the integrity of Colorado's medical marijuana business.

Regulation 47-912. Identification.

- A. Licensees shall refuse to sell medical marijuana to any patient or caregiver permitted to deliver medical marijuana to homebound patients as permitted by section 25-1.5-106(7)(d), C.R.S., unable to produce a valid patient registry card or its functional equivalent and adequate, currently valid identification of age. As long as it contains a picture and date of birth, the kind and type of identification deemed adequate shall be limited to the following:
1. An operator's, chauffeur's or similar type driver's license, issued by any state within the United States, any U.S. Territory.
 2. An identification card, issued by any state for the purpose of proof of age as in accordance with sections 42-2-302 and 42-2-303, C.R.S.
 3. A military identification card.
 4. A passport.

**Statement of Basis, Purpose and Statutory Authority
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1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-402(2)(a), 12-43.3-402(7), and 12-43.3-404(5), C.R.S.

Basis and Purpose:

Currently there are limited scientific test results on which a licensee, patient, or the MMED can rely to determine the safety, strength, and efficacy of a particular strain of medical marijuana. The MMED needs to sample certain strains and products for such standards to be developed. In addition, consumers need to know what chemicals were used in the preparation of the medical marijuana and medical marijuana-infused products they consume. Accordingly, the State Licensing Authority adopted this rule.

Regulation 43.3-904. Product Labeling, Substitution, Sampling and Analysis.

- A. No licensee, for the sale of medical marijuana shall sell, transfer or give away any medical marijuana that does not contain a label with a list of all ingredients, including all chemical additives, including but not limited to nonorganic pesticides, herbicides, and fertilizers that were used in its cultivation and production.
 - 1. In addition, all labels for non infused products shall include:
 - a. the license number of the Optional Premises Cultivation licensee, the Medical Marijuana Center if medical marijuana was obtained from a center not licensed the same as the Optional Premises Cultivation facility, or if being sold by a different licensed Medical Marijuana Center, that Center's license number;
 - b. the date of sale; and
 - c. the patient registry number of the purchaser.
 - 2. All medical marijuana-infused products which are sold, offered for sale or exposed for sale, or transported within the State of Colorado for sale shall bear thereon or have attached thereto in a conspicuous

place a plainly written or printed label or tag in the English language, giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the product:

- a. an identity statement;
 - b. a net weight statement;
 - c. a list of ingredients;
 - d. a recommended use by or expiration date;
 - e. batch tracking information;
 - f. basic medical and/or legal warning information; and
 - g. statement of the company name and State Licensing Authority license number, together with the company's telephone number or mailing address or website information;
 3. The minimum print size for each of the three required statements for non infused products and for each of the seven required statements for medical marijuana-infused products is 1/16 inch. The size of the characters in the net weight statement is determined by the area of the principal display panel and may be greater than 1/16 inch.
 4. For medical marijuana-infused products, the product identity and net weight statements must appear on the portion of the label displayed to the consumer.
 5. When a medical marijuana-infused product is made specifically for a designated patient, the label of that product shall state the patient's Medical Marijuana Registry number.
 6. The list of ingredients and company name statements must be conspicuously listed on the medical marijuana-infused product package.
 7. A nutrition facts panel may be required if nutritional claims are made on the label of any medical marijuana-infused product.
 8. All "edibles" shall also contain the following statement:

"This product is infused with medical marijuana and was produced without regulatory oversight for health, safety or efficacy and there may be health risks associated with the consumption of the product."
- B. All licensees for the sale of medical marijuana shall, upon request of the MMED or any of its officers, make available to the person so requesting a sufficient quantity of such medical marijuana to enable laboratory or chemical analysis thereof. The licensee shall be notified of the results of the analysis without delay.

- C. The Director of the Medical Marijuana Enforcement Division may contract with a laboratory to conduct independent testing of Medical Marijuana products. Testing may be conducted for determining if samples of medical marijuana contain molds, pesticides or other substances that may be present. To ensure integrity such testing shall be conducted by a laboratory that does not process samples for any licensee.
- D. In addition to the requirements as listed above, nothing shall preclude the manufacturer from making recommended guidelines for dosage and usage of medical marijuana in any form as long as the statement includes language that the recommended guidelines have not been scientifically validated. By way of example, the recommendations may include language that substantially states:
1. "The appropriate dose of medical marijuana may be different for each patient and medical condition. Please consult your physician or medical marijuana center" and/or;
 2. "Levels of active components of medical marijuana reported on product labels are not subject to independent verification and may differ from actual levels".
- E. The following chemicals which have been banned by federal and state agriculture authorities shall not be used in the cultivation of marijuana for medical purposes by Licensees. Possession of chemicals and/or containers from these chemicals upon the licensed premises shall be a violation. These include:

Chemical Name
CAS Registry Number (or EDF Substance ID)
ALDRIN
309-00-2
ARSENIC OXIDE (3)
1327-53-3
ASBESTOS (FRIABLE)
1332-21-4
AZODRIN
6923-22-4
1,4-BENZOQUINONE, 2,3,5,6-TETRACHLORO-
118-75-2
BINAPACRYL
485-31-4
2,3,4,5-BIS (2-BUTENYLENE) TETRAHYDROFURFURAL
126-15-8
BROMOXYNIL BUTYRATE
EDF-186

CADMIUM COMPOUNDS

CAE750

CALCIUM ARSENATE [2ASH3O4.2CA]

7778-44-1

CAMPHECHLOR

8001-35-2

CAPTAFOL

2425-06-1

CARBOFURAN

1563-66-2

CARBON TETRACHLORIDE

56-23-5

CHLORDANE

57-74-9

CHLORDECONE (KEPONE)

143-50-0

CHLORDIMEFORM

6164-98-3

CHLOROBENZILATE

510-15-6

CHLOROMETHOXYPROPYLMERCURIC ACETATE [CPMA]

EDF-183

COPPER ARSENATE

10103-61-4

2,4-D, ISOOCTYL ESTER

25168-26-7

DAMINOZIDE

1596-84-5

DDD

72-54-8

DDT

50-29-3

DI(PHENYLMERCURY)DODECENYLSUCCINATE [PMDS]

EDF-187

1,2-DIBROMO-3-CHLOROPROPANE (DBCP)

96-12-8

1,2-DIBROMOETHANE

106-93-4

1,2-DICHLOROETHANE

107-06-2

DIELDRIN

60-57-1

4,6-DINITRO-O-CRESOL

534-52-1

DINITROBUTYL PHENOL

88-85-7

ENDRIN
72-20-8
EPN
2104-64-5
ETHYLENE OXIDE
75-21-8
FLUOROACETAMIDE
640-19-7
GAMMA-LINDANE
58-89-9
HEPTACHLOR
76-44-8
HEXACHLOROBENZENE
118-74-1
1,2,3,4,5,6-HEXACHLOROCYCLOHEXANE (MIXTURE OF ISOMERS)
608-73-1
1,3-HEXANEDIOL, 2-ETHYL-
94-96-2
LEAD ARSENATE
7784-40-9
LEPTOPHOS
21609-90-5
MERCURY
7439-97-6
METHAMIDOPHOS
10265-92-6
METHYL PARATHION
298-00-0
MEVINPHOS
7786-34-7
MIREX
2385-85-5
NITROFEN
1836-75-5
OCTAMETHYLDIPHOSPHORAMIDE
152-16-9
PARATHION
56-38-2
PENTACHLOROPHENOL
87-86-5
PHENYLMERCURIC OLEATE [PMO]
EDF-185
PHOSPHAMIDON
13171-21-6
PYRIMINIL

53558-25-1
SAFROLE
94-59-7
SODIUM ARSENATE
13464-38-5
SODIUM ARSENITE
7784-46-5
2,4,5-T
93-76-5
TERPENE POLYCHLORINATES (STROBANE6)
8001-50-1
THALLIUM(I) SULFATE
7446-18-6
2,4,5-TP ACID (SILVEX)
93-72-1
TRIBUTYLTIN COMPOUNDS
EDF-184
2,4,5-TRICHLOROPHENOL
95-95-4
VINYL CHLORIDE
75-01-4

F. The use of Dimethylsulfoxide (DMSO) in the production of medical marijuana products shall be prohibited and possession of DMSO upon the licensed premises is prohibited.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-305, and 12-43.3-310, C.R.S.

Basis and Purpose:

This rule lays out the basic requirements for all applications filed with the MMED. It helps the regulated community understand what must be done before any application will be considered. For instance, the rule requires full payment of both the application and license fees before it will be considered. The MMED hopes this rule will help prevent confusion because applicants are on notice that partial applications will not be considered by the MMED.

Regulation 43.3-310. Application - General Provisions.

- A. All applications for state licenses authorized pursuant to section 12-43.3-401, C.R.S., shall be made upon forms prescribed by the Department of Revenue, Medical Marijuana Enforcement Division. No application will be considered which is not complete in every material detail, nor which is not accompanied by a remittance in full for the whole amount of the annual state application and license fees. Each application for a new license shall contain a report of the local licensing authority of the town, city, county, or city and county in which the applicant proposes to conduct its business, which report shall comply with Article 43.3 of Title 12, C.R.S., and provide a written approval of the local licensing authority.
- B. If the applicant for a license is a partnership, except as between a husband and wife, it shall submit with the application a certificate of co-partnership.
- C. Upon request of any licensing authority, each applicant for license shall provide suitable additional evidence of its citizenship, residence, and good character and reputation, and licensees shall also submit upon request of any licensing authority all required information concerning financial and management associations and interests of other persons in the business, and the deed, lease, contract, or other document governing the terms and conditions of occupancy of the premises licensed or proposed to be licensed.
- D. All information submitted to any licensing authority, by application for license or otherwise, shall be given fully, faithfully, truthfully and fairly.

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1 CCR 212

Regulation 43.3-_____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-310(6), and 12-43.3-310(8)(a),
C.R.S.

Basis and Purpose:

This rule establishes that if a licensee wishes to change its class of license, *e.g.*, from a Medical Marijuana Center license to a Manufacturing Infused Products License, he or she will need to initiate the application process from the beginning. The MMED believes this requirement is consistent with the purposes of the Code, one of which is to ensure proper regulation of all licensees. If a licensee were able to switch its class of license without applying for a new license, the MMED would run the risks of improperly categorizing a license, not doing proper background checks, and leaving open the possibility of not knowing when a license expires.

Regulation 43.3-300. Change in Class of License.

A request for a change in the class of license from that presently held by a licensee shall be considered as an application for a new license.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 12-43.3-310(13)(a), C.R.S.

Basis and Purpose:

The Code allows a licensee to change the permanent location of its licensed premises to another place in the same municipality for which the license was originally granted after permission is granted by both the local and state licensing authorities. This rule explains how permission from the state is to be requested. During the development of this rule, stakeholders voiced concerns that they may not have been able to make the location change in 120 days as allowed by the rule. They did not want to be operating in violation of the Code in such a circumstance. In response to that concern, the State Licensing Authority added a provision to this rule that gives licensees an additional 90 days to make the change for good cause shown. The State Licensing Authority intends good cause to include matters that are out of the control of the licensee. One example of such a matter would be if a licensee's contractor says on day 115 that it needs another three weeks to complete its work. Good cause is not intended to include poor planning of the licensee.

Regulation 43.3-312. Change of Location

- A. In the event any licensee licensed pursuant to section 12-43.3-401(1)(a), (b), or (c), C.R.S., desires to change its place of business from that named in an existing license, it shall make application to the MMED for permission to change location to the place where such license is to be exercised.
- B. Each such application shall be made upon forms prescribed by the Medical Marijuana Enforcement Division, shall be verified, and shall be complete in every detail. Each such application shall show thereon the reason for requesting such change, and in case of a retail license, shall be supported by evidence that the application complies with any local requirements of the neighborhood in the vicinity of the new location. In the case of the change of location of a license, each such application shall contain a report of the local licensing authority of the town, city, county, or city and county in which the license is to be exercised, which report shall show the opinion of the local licensing authority with respect to the new location.

- C. No change of location shall be permitted until after the MMED considers the application and such additional information as it may require, and issues to the applicant a permit for such change. The permit shall be effective on the date of issuance, and the licensee shall, within one-hundred twenty (120) days, change the location of its business to the place specified therein and at the same time cease to conduct the sale of medical marijuana from the former location. The permit shall be conspicuously displayed at the new location, immediately adjacent to the license to which it pertains.
- D. No change of location will be allowed except to another place within the same city, town, county or city and county in which the license as originally issued was to be exercised.
- E. Upon application for change of location, public notice if applicable shall be required by the local licensing authority in accordance with section 12-43.3-302, C.R.S.
- F. There shall be no public notice requirements when requesting a change of location for an Optional Premises Cultivation license.
- G. The timelines in this regulation may be extended for an additional ninety (90) days for good cause shown.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation**

1 CCR 212

Regulation 43.3-_____

Statutory Authority:

Sections 12-43.3-104(3), 12-43.3-201, 12-43.3-202, and 24-4-105, C.R.S.

Basis and Purpose:

The Code limits the licensed area to that area described in an application. Accordingly, this rule was adopted to both clarify the process that licensees must follow when their physical licensed location is altered and ensure that the MMED has accurate knowledge regarding licensed premises. The rule gives licensees the ability to make cosmetic and minor changes to their licensed areas without getting prior written consent of the State Licensing Authority. The rule also protects the licensees' due process rights by stating that they have a right to a hearing if their request for a change, alteration, or modification is denied.

Regulation 43.3-302. Changing, Altering, or Modifying Licensed Premises.

- A. After issuance of a license, the licensee shall make no physical change, alteration or modification of the licensed premises which materially or substantially alters the licensed premises or the usage of the licensed premises from the plans and specifications submitted at the time of obtaining the original license without the prior written consent of the local and state licensing authorities. For purposes of this regulation, physical changes, alterations or modifications of the licensed premises, or in the usage of the premises requiring prior written consent, shall include, but not be limited to, the following:
1. Any increase or decrease in the total physical size or capacity of the licensed premises.
 2. The sealing off, creation of or relocation of a common entryway, doorway, passage or other such means of public ingress and/or egress, when such common entryway, doorway or passage alters or changes the cultivation, harvesting of, or sale or distribution of medical marijuana within the licensed premises.
 3. Any substantial or material enlargement of a sales counter, or relocation of a sales counter, or addition of a separate sales counter.

4. Any material change in the interior of the premises that would affect the basic character of the premises or the physical structure that existed in the plan on file with the latest prior application.

The foregoing shall not apply to painting and redecorating of premises; the installation or replacement of electric fixtures or equipment; the lowering of ceiling; the installation and replacement of floor coverings; the replacement of furniture and equipment, and other similar changes, nor to any non structural remodeling of a licensee's premises where the remodel does not expand the existing approved areas.

- B. In making its decision with respect to any proposed changes, alterations or modifications, the licensing authority must consider whether the premises, as changed, altered or modified, will meet all of the pertinent requirements of the Colorado Medical Marijuana Code and the Regulations promulgated there under. Factors to be taken into account by the licensing authority include, by way of illustration but not limited to, the following:

1. The possession, by the licensee, of the changed premises by ownership, lease, rental or other arrangement.
2. Compliance with the applicable zoning laws of the municipality, city and county or county.
3. Compliance with the distance prohibition in regard to any public or parochial school or the principal campus of any college, university, or seminary, child care center or drug treatment center.
4. The legislative declaration that the Colorado Medical Marijuana Code is an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.

- C. If permission to change, alter or modify the licensed premises is denied, the licensing authority shall give notice in writing and shall state grounds upon which the application was denied. The licensee shall be entitled to a hearing on the denial if a request in writing is made to the licensing authority within thirty days after the date of notice. At no time shall the address of the Optional Premises Cultivation license be disclosed.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation**

1 CCR 212

Regulation 43.3- _____

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202 and 12-43.3-305(1), C.R.S.

Basis and Purpose:

The State Licensing Authority needs to maintain accurate records regarding its licensees and considers knowing the trade names of its licensees to be essential. Accordingly, this rule was adopted to ensure that the State Licensing Authority has up-to-date, accurate information about its licensees, which will enable it to effectively regulate said licensees.

Regulation 43.3-306. Change of Trade Name.

No licensee shall change the name or trade name of the licensed premises without submitting written notice to the local and state licensing authorities at least ten (10) days prior to the change.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212**

Regulation 43.3-_____.

Statutory Authority:

Sections 12-43.3-201, 12-43.3-202, 12-43.3-401(2), 12-43.3-404(7), 24-4-105, and 39-26-726, C.R.S.

Basis and Purpose:

With limited, defined exception, the Code requires all licensees to collect sales tax on all sales made pursuant to the licensing activities. This rule clarifies when such taxes must be remitted to the Colorado Department of Revenue and explains what the consequences will be if a licensee fails to remit the taxes. The State Licensing Authority intends to protect its licensees' due process rights and will allow a licensee the right to have a hearing regarding the revocation of its license if it fails to pay its sales taxes. The MMED plans to initiate license revocation proceedings if a licensee fails to remit its taxes in part because a licensee is simply acting as an agent for the state when it collects the sales tax from its customers. Sales tax money never belongs to a licensee. Accordingly, if a licensee fails to remit the taxes it collects to the Colorado Department of Revenue, that licensee is in effect stealing money.

43.3-xxx Reporting and Transmittal of Monthly Tax Payments.

All state and state collected sales and use tax returns must be filed and all taxes must be paid to the Department of Revenue on or before the 20th day of the month following the reporting month. For example, a January return and remittance will be due to the Department of Revenue by February 20th. If the due date (20th of the month) falls on a weekend or holiday, the next business day is considered the due date for the return and remittance. If any return or associated tax payment is delinquent, then the Medical Marijuana Center's license will be revoked upon the issuance of the Executive Director's Notice of Final Determination (NOFD). Evidence that this requirement has been met shall be reported to the Medical Marijuana Enforcement Division of the Department of Revenue on a monthly basis as directed. This report shall include the full amount of sales tax reported.

**Statement of Basis, Purpose and Statutory Authority
of Proposed Regulation
1 CCR 212
Regulation 43.3-xxx**

Statutory Authority:

Sections 12-43.3-201 and 12-43.3-202, C.R.S.

Basis and Purpose:

The State Licensing Authority recognizes that there are times when a licensee participates in behavior that should be sanctioned but does not rise to the level of the State automatically initiating formal discipline against the licensee. The State Licensing Authority adopted this rule to address such times when a licensee may pay a fine in lieu of other discipline like suspension or revocation of his/her license. In those situations a licensee may elect to pay a fee for the violation; however, a licensee's due process rights are still protected and the licensee is not required to pay the fee in lieu of other discipline. The State Licensing Authority intends this rule to allow its resources to be used more effectively than they would be if a hearing were automatically initiated for all alleged license violations.

43.3-xxx Administrative Citations.

A. Applicability.

This regulation provides for administrative citations which are in addition to all other legal remedies, criminal or civil, which may be pursued by the State Licensing Authority to address any violation of the Colorado medical marijuana laws and rules.

B. Citation – Defined.

A complete written notice, issued to a licensee by the Division on an approved form and by means of which the Division alleges the licensee has violated one or more Colorado medical marijuana laws or rules.

C. Administrative Citation.

1. The State Licensing Authority delegates to the Division Director or the Division Director's designees the authority to issue citations according

to the Citation Violation List and Schedule of Penalties, whenever a citation is called for. The State Licensing Authority also delegates to the Division Director the authority to rescind any citation and cancel its associated penalty, with or without prejudice, in the event that the citation has not been issued according to the provisions of the Citation Violation List and Schedule of Penalties, or has, otherwise, been inappropriately issued.

2. Each administrative citation shall contain the following information:
 - a. The date of the violation or, if the date of the violation is unknown, then the date the violation is identified;
 - b. The address or a definite description of the location where the violation occurred;
 - c. The section of the Colorado medical marijuana laws or rules violated and a description of the violation;
 - d. The amount of the fine for the violation or whether a hearing is required;
 - e. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
 - f. An order prohibiting the continuation or repeated occurrence of the violation described in the administrative citation;
 - g. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place to which the request must be made; and
 - h. The name and signature of the citing enforcement officer.

D. Fine and Late Payment Fee.

1. Fines and any late charges due shall be made payable to the Department of Revenue and paid at such location or address as stated in the citation, or as may otherwise be designated by the State Licensing Authority.
2. The due date for the State Licensing Authority's receipt of a fine shall be twenty-one (21) calendar days from the date of issuance of the citation.

3. Any person who fails to pay the State Licensing Authority any fine imposed pursuant to the provisions of this regulation on or before the date that fine is due also shall be liable for the payment of any applicable late payment charges.
4. Payment of the fine shall not excuse or discharge the licensee from the duty to immediately stop violating Colorado's medical marijuana laws or rules, nor from any other responsibility or legal consequences for a continuation or repeated occurrence(s) of a violation of Colorado's medical marijuana laws or rules.
5. Abatement of a violation shall not excuse the obligation of the licensee to pay a fine, or any late charge imposed on that untimely payment of the fine.

E. Violation - Defined.

1. For purposes of penalty assessments, a violation of Colorado medical marijuana law or rules is classified as a general violation unless otherwise specified.
 - a. A general violation is defined as a violation which is specifically determined not to be of a serious nature, but has a relationship to Colorado's medical marijuana laws or rules.
2. A general violation can be deemed aggravated and the penalty assessment increased when any relevant circumstances, supported by evidence, are present to cause the harshest penalty allowed under Article 43.3 of Title 12 C.R.S. or any of the rules promulgated thereunder.

F. Citation Violation List and Schedule of Penalties.

| Description of Violation | Authority | 1st Violation | 2nd Violation | 3rd Violation |
|---------------------------------|--|--|---------------------------------|---------------------------------|
| Working without a license | 43.3-xxx; <u>General:</u> 12-43.3-202(2)(a)(I); <u>Aggravated:</u> 12-43.3-901(1). | <u>General:</u> \$50 <u>Aggravated:</u> \$250-\$1,000 fine or Hearing | \$100 | \$200 |
| Misuse of license | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$50 | \$100 | \$200 |
| Failure to have | 43.3-xxx; | \$50 | \$100 | \$200 |

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| employee properly licensed | 12-43.3-202(2)(a)(I). | | | |
| Failure to have license validated/ current | 43.3-xxx; §12-43.3-202(2)(a)(I). | \$50 | \$100 | \$200 |
| Failure to display license in a restricted area | 43.3-xxx; <u>General</u> : 12-43.3-202(2)(a)(IX); <u>Aggravated</u> : 12-43.3-901(3)(a). | <u>General</u> : \$50 <u>Aggravated</u> : \$250-\$1,000 fine or Hearing | \$100 | \$200 |
| Licensee consuming or otherwise using medical marijuana on premises | 43.3-xxx; <u>General</u> : 12-43.3-202(2)(a)(I); <u>Aggravated</u> : 12-43.3-901(1)(a). | <u>General</u> : \$100 <u>Aggravated</u> : \$250-\$1,000 fine or Hearing | \$200 | Hearing |
| Licensee consuming or otherwise using medical marijuana while transporting medical marijuana | 12-43.3-202(1)(b)(I); 12-43.3-202(2)(a)(XI). | \$100 | \$200 | Hearing |
| Failure to perform proper maintenance | 43.3-xxx; 12-43.3-202(2)(a)(XI). | \$50 | \$100 | Hearing |
| Failure to have business facility in proper condition | 43.3-xxx; 12-43.3-202(2)(a)(XI). | \$50 | \$100 | Hearing |
| Exhibit behavior demonstrating unsatisfactory character, record or reputation | 43.3-xxx; 12-43.3-307. | \$100 | \$200 | Hearing |
| Failure to keep complete set of all records | 43.3-xxx; 12-43.3-202(2)(a)(XV). | \$50 | \$100 | \$200 |

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| necessary to show fully the business transactions of the licensee (minor) | | | | |
| Failure to have all documentation, approvals, and variances, or copies thereof, relating to surveillance | 43.3-xxx; 12-43.3-202(2)(a)(X). | \$50 | \$100 | \$200 |
| Allowing, having, or bringing unauthorized person(s) into restricted areas | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$100 | \$200 | Hearing |
| Failure to take all reasonable measures and precautions to establish and maintain sanitary conditions | 43.3-xxx; 12-43.3-202(2)(a)(XII). | \$100 | \$250 | Hearing |
| Failure to report and transmit monthly sales tax payments | 43.3-xxx; 12-43.3-202(2)(a)(XVIII). | \$50 | \$100 | Hearing |
| Incorrect or misleading informational and product displays on licensed premises | 43.3-xxx; 12-43.3-202(2)(a)(VII). | \$50 | \$100 | \$200 |
| Incorrect or misleading labeling | 43.3-xx; 12-43.3-202(2)(a)(XIV). | \$50 | \$100 | \$200 |
| Prohibited conduct in | 43.3-xxx; 12-43.3- | \$100 | \$200 | Hearing |

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| restricted area | 202(2)(a)(I). | | | |
| Failure to comply with orders or rulings of state or local licensing authority | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$100 | \$200 | Hearing |
| Failure to follow proper regulation procedure | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$50 | \$100 | Hearing |
| Failure to give notification of change or loss as required by regulation | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$50 | \$75 | \$100 |
| Late filing or submission of any report or notification required by statute or regulation | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$50 | \$100 | Hearing |
| Failure to tag or label any plant or product as required by statute or regulation | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$200 | \$300 | Hearing |
| Failure to use scale or weight specifications as required by statute or regulation | 43.3-xxx; 12-43.3-202(2)(a)(XX). | \$100 | \$200 | Hearing |
| Sale of unauthorized plant materials or products | 43.3-xxx; 12-43.3-901. | \$250-\$1,000 fine or Hearing | | |
| Failure to provide safe work environment or protective gear | 43.3-xxx; 12-43.3-202(2)(a)(XX). | \$50 | \$100 | Hearing |

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| to employees | | | | |
| Failure of licensee to be present when required by statute or regulation | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$100 | \$200 | Hearing |
| Failure to or inadequate posting of public notices as required by statute or regulation | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$50 | \$100 | Hearing |
| Intentional disclosure of confidential information adversely affecting the public health or welfare or the safety of the immediate neighborhood in which the establishment is located | 43.3-xxx; 12-43.3-202(2)(a)(XX). | \$100 | \$200 | Hearing |
| Unauthorized person conducting sales or performing other business functions | 43.3-xxx; 12-43.3-202(2)(a)(I). | \$100 | \$200 | Hearing |
| Obstructing or interfering with any inspections, investigations, searches or seizures conducted pursuant to statute or regulation | 43.3-xxx; <u>General:</u> 12-43.3-202(2)(a)(IV); <u>Aggravated:</u> 18-8-104. | <u>General:</u> \$100 <u>Aggravated:</u> \$250-\$1,000 fine or Hearing | \$200 | Hearing |

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| Intimidating or threatening any officer or employee of a state or local licensing authority | 43.3-xxx; <u>General:</u> 12-43.3-202(2)(a)(XX); <u>Aggravated:</u> 18-9-111. | <u>General:</u> \$100 <u>Aggravated:</u> \$50-\$750 fine or Hearing | \$200 | Hearing |
| Engage in an unlawful, unfair or fraudulent business act or practice | 43.3-xxx; 12-43.3-202(2)(a)(VI). | \$100 | \$200 | Hearing |
| Possession and/or use of fraudulent identification card | 43.3-xxx; <u>General:</u> 12-43.3-202(2)(a)(VIII); <u>Aggravated:</u> 18-5-110. | <u>General:</u> \$100 <u>Aggravated:</u> \$500-\$5,000 fine or Hearing | \$200 | Hearing |

G. Hearing Request for Administrative Citations.

1. All requests made to the State Licensing Authority pursuant to this rule for a hearing by any party aggrieved by any action, including all requests to challenge a citation, must be made in writing within twenty (20) days of the date of the citation from unless otherwise provided by these rules. The request shall include the grounds for the hearing requested. If no written request is made within twenty (20) days, the aggrieved person shall be deemed to have waived any right to challenge the citation.
2. When a licensee requests a hearing, the Division Director shall review the citation under the provisions of this rule. For any citation that the Division Director or their designee determines there should be hearing, the State Licensing Authority shall assign the hearing according to the provisions of this rule to the Department of Revenue Hearings Division for assignment to a Hearing Officer. The Division or the Department of Revenue Hearings Division shall provide notice to the licensee according to the provisions of this rule, and shall conduct the hearing pursuant to the provisions of this rule.

H. Hearing Officer.

Pursuant to section 12-43.3-202(1)(c), C.R.S., the State Licensing Authority may delegate to the Department of Revenue Hearing Officers the authority to conduct licensing, disciplinary and rulemaking hearings under section 24-4-105, C.R.S.

Unless otherwise provided for in this rule, the Hearing Officer shall conduct the hearing in compliance with the Administrative Procedure Act.

I. Hearing Procedure For Administrative Citations.

1. Provided the licensee appears for the hearing, the hearing shall be on the merits to determine whether the charged violation did occur. After the matter has been heard, the Hearing Officer shall make findings of fact and shall issue an order on behalf of the State Licensing Authority. The order of the Hearing Officer shall constitute an initial decision appealable to the Executive Director of the Department of Revenue under the Colorado Administrative Procedures Act. If the charged violation did occur, then the order from the hearing shall uphold the citation in full, shall not increase the penalty, shall require the fine(s) to be paid pursuant to this rule, and shall reset the payment date based upon the date of the Ruling. If the charged violation(s) did not occur, then the ruling from the hearing shall dismiss the citation with prejudice and cancel the associated penalty.
2. If the licensee fails to appear for the hearing and no continuance has been granted, the Hearing Officer shall call the case and make a record of the proceedings, the licensee's request for an appeal hearing shall be deemed to be abandoned, the licensee shall have waived any right to a hearing forever, the original citation shall be upheld without change, and the citation's fines ordered to be paid pursuant to this rule, with the payment date reset based upon the date of the order.

J. Recovery of Administrative Citation Fines and Costs.

The State Licensing Authority may collect any past due administrative citation fine or late payment charge by use of all available legal means. The State Licensing Authority also may recover its collection costs as provided by law.

K. Administrative Citations - Notices.

1. Whenever a notice is required to be given under this rule, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail, in a sealed envelope postage prepaid, addressed to such person to be notified at his last-known business or residence address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

2. Failure to receive any notice specified in this regulation does not affect the validity of proceedings conducted hereunder.